

COURT OF APPEAL FOR ONTARIO

B E T W E E N :

ONTARIO SECURITIES COMMISSION

Applicant
(Respondent in Appeal – Moving Party)

– and –

GO-TO DEVELOPMENTS HOLDINGS INC., OSCAR FURTADO, FURTADO HOLDINGS INC., GO-TO DEVELOPMENTS ACQUISITIONS INC., GO-TO GLENDALE AVENUE INC., GO-TO GLENDALE AVENUE LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK II INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK II LP, GO-TO NIAGARA FALLS CHIPPAWA INC., GO-TO NIAGARA FALLS CHIPPAWA LP, GO-TO NIAGARA FALLS EAGLE VALLEY INC., GO-TO NIAGARA FALLS EAGLE VALLEY LP, GO-TO SPADINA ADELAIDE SQUARE INC., GO-TO SPADINA ADELAIDE SQUARE LP, GO-TO STONEY CREEK ELFRIDA INC., GO-TO STONEY CREEK ELFRIDA LP, GO-TO ST. CATHARINES BEARD INC., GO-TO ST. CATHARINES BEARD LP, GO-TO VAUGHAN ISLINGTON AVENUE INC., GO-TO VAUGHAN ISLINGTON AVENUE LP, AURORA ROAD LIMITED PARTNERSHIP, and 2506039 ONTARIO LIMITED

Respondents
(Appellants)

APPLICATION UNDER
Sections 126 and 129 of the *Securities Act*, R.S.O. 1990 c. s.5, as amended

MOTION RECORD – FRESH EVIDENCE TENDERED BY THE RESPONDENT

March 10, 2022

ONTARIO SECURITIES COMMISSION
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Lawyers for the Receiver, KSV Restructuring Inc.

AND TO: Service List in Commercial List File No. CV-21-00673521-00CL

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Court of Appeal File No. C70114

COURT OF APPEAL FOR ONTARIO

B E T W E E N :

ONTARIO SECURITIES COMMISSION

Applicant
(Respondent in Appeal – Moving Party)

– and –

GO-TO DEVELOPMENTS HOLDINGS INC., OSCAR FURTADO, FURTADO HOLDINGS INC., GO-TO DEVELOPMENTS ACQUISITIONS INC., GO-TO GLENDALE AVENUE INC., GO-TO GLENDALE AVENUE LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK II INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK II LP, GO-TO NIAGARA FALLS CHIPPAWA INC., GO-TO NIAGARA FALLS CHIPPAWA LP, GO-TO NIAGARA FALLS EAGLE VALLEY INC., GO-TO NIAGARA FALLS EAGLE VALLEY LP, GO-TO SPADINA ADELAIDE SQUARE INC., GO-TO SPADINA ADELAIDE SQUARE LP, GO-TO STONEY CREEK ELFRIDA INC., GO-TO STONEY CREEK ELFRIDA LP, GO-TO ST. CATHARINES BEARD INC., GO-TO ST. CATHARINES BEARD LP, GO-TO VAUGHAN ISLINGTON AVENUE INC., GO-TO VAUGHAN ISLINGTON AVENUE LP, AURORA ROAD LIMITED PARTNERSHIP, and 2506039 ONTARIO LIMITED

Respondents
(Appellants)

APPLICATION UNDER
Sections 126 and 129 of the *Securities Act*, R.S.O.1990, c. s.5, as amended

NOTICE OF MOTION
(Fresh Evidence Motion)

The Respondent will make a motion to the panel hearing the appeal on Wednesday, April 13, 2022, at 10:00 a.m., or as soon after that time as the motion can be heard at Osgoode Hall, 130 Queen Street West, Toronto, Ontario, M5H 2N5 or via video conference as the Court may direct.

PROPOSED METHOD OF HEARING: The motion is to be heard:

[X] In person;

or

[X] By video conference;

as the Court may direct.

THE MOTION IS FOR:

1. An Order admitting as fresh evidence on the appeal two reports issued by KSV Restructuring Inc. (the **Receiver**) to date, as well as two notices of motion and a February 9, 2022 Order and Endorsement of Justice Conway (the **Fresh Evidence**); and
2. Costs of this motion.

THE GROUNDS FOR THE MOTION ARE:

3. The Appellants seek to overturn the Order of Justice Pattillo dated December 10, 2021, which, among other things, continued two freeze directions issued by the Commission under section 126 of the *Securities Act* and appointed the Receiver as receiver and manager of the appellant entities (**Go-To**) pursuant to section 129 of the *Securities Act* (the **Receivership Order**);
4. The Fresh Evidence provides the Court with important information about further misconduct by the appellant Oscar Furtado while he had notice of the Commission's application, the financial state of the Go-To entities, and the status of the Receivership, including that:
 - a. while he had notice of the Commission's application for a receiver and continuation of the freeze directions: (i) Furtado entered a conditional sales agreement for real properties belonging to the Adelaide LP, which is largest asset of any Go-To entity;

and (ii) his family and friends cancelled contracts with another Go-To entity; even though:

i. at the time he entered the sales agreement for the Adelaide LP properties:

1. he was prohibited by one of the Commission freeze directions from dealing with any assets derived from investor funds;
2. Justice Pattillo had already denied Furtado's request for an adjournment of the application and His Honour's decision on the application was under reserve; and
3. Furtado had submitted to Justice Pattillo that an adjournment would have been appropriate because there was no evidence "anything precipitous was about to happen";

ii. when his family and friends cancelled contracts:

1. it was on the day the application was heard by Justice Pattillo; and
2. he had previously been served with the draft receivership order sought by the Commission, the terms of which would have prevented persons from cancelling contracts with the Go-To entities;

b. the Receiver has found Go-To entities to be in financial jeopardy; and

- c. on February 9, 2022, the Commercial List granted the Receiver's request for a sales process for the Go-To entities' real properties (the **Sales Process Order**). Furtado himself consented to the Sales Process Order and no stakeholder opposed it;

5. The proposed Fresh Evidence is credible, could not have been adduced on the application below by the exercise of due diligence, and could affect the result or be conclusive of an issue on the appeal. Further, or alternatively, admission of the Fresh Evidence is necessary to allow the Court to deal fairly with the issues in the appeal and provides the Court with the full picture of the commercial reality of the case;

6. The panel hearing the appeal has the jurisdiction to hear this motion, per section 134(4)(b) of the *Courts of Justice Act*, RSO 1990, c. C.43 and Rule 61.16 of the *Rules of Civil Procedure*, RRO 1990, Reg. 194; and

7. Such further and other grounds as the lawyers may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

8. The Affidavit of Paul Baik sworn March 7, 2022; and

9. Such further and other evidence as counsel may advise and this Honourable Court may permit.

March 10, 2022

ONTARIO SECURITIES COMMISSION

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Lawyers for the Receiver, KSV Restructuring Inc.

AND TO: Service List in Commercial List File No. CV-21-00673521-00CL

Court of Appeal File No. C70114

ONTARIO SECURITIES COMMISSION
Applicant (Respondent in Appeal - Moving
Party)

- AND -

GO-TO DEVELOPMENTS HOLDINGS INC., *et al.*
Respondents (Appellants)

COURT OF APPEAL FOR ONTARIO
Proceeding Commenced at Toronto

NOTICE OF MOTION
(Fresh Evidence Motion)

Ontario Securities Commission
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Commission

Court of Appeal File No. C70114

COURT OF APPEAL FOR ONTARIO

B E T W E E N :

ONTARIO SECURITIES COMMISSION

Applicant
(Respondent in Appeal – Moving Party)

– and –

GO-TO DEVELOPMENTS HOLDINGS INC., OSCAR FURTADO, FURTADO HOLDINGS INC., GO-TO DEVELOPMENTS ACQUISITIONS INC., GO-TO GLENDALE AVENUE INC., GO-TO GLENDALE AVENUE LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK II INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK II LP, GO-TO NIAGARA FALLS CHIPPAWA INC., GO-TO NIAGARA FALLS CHIPPAWA LP, GO-TO NIAGARA FALLS EAGLE VALLEY INC., GO-TO NIAGARA FALLS EAGLE VALLEY LP, GO-TO SPADINA ADELAIDE SQUARE INC., GO-TO SPADINA ADELAIDE SQUARE LP, GO-TO STONEY CREEK ELFRIDA INC., GO-TO STONEY CREEK ELFRIDA LP, GO-TO ST. CATHARINES BEARD INC., GO-TO ST. CATHARINES BEARD LP, GO-TO VAUGHAN ISLINGTON AVENUE INC., GO-TO VAUGHAN ISLINGTON AVENUE LP, AURORA ROAD LIMITED PARTNERSHIP, and 2506039 ONTARIO LIMITED

Respondents
(Appellants)

APPLICATION UNDER
Sections 126 and 129 of the *Securities Act*, R.S.O. 1990 c. s.5, as amended

AFFIDAVIT OF PAUL BAIK
(Sworn via Videoconference March 7, 2022)

I, Paul Baik, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. This affidavit is sworn in relation to a motion by the Respondent in this appeal, the Ontario Securities Commission, for the admission of fresh evidence.

2. I am an Assistant Investigator in the Enforcement Branch (**Staff**) of the Ontario Securities Commission (the **Commission**). I am the assistant investigator assigned to Staff's investigation into, among others, Go-To Developments Holdings Inc. and its principal Oscar Furtado and, as such, I have personal knowledge of the matters set out in this affidavit, except where I have been informed by others and I believe that information to be true.

3. The appeal arises from an order of Justice Pattillo of the Ontario Superior Court of Justice – Commercial List (**Commercial List**) dated December 10, 2021 (the **Receivership Order**), which among other things appoints KSV Restructuring Inc. (the **Receiver**) as the receiver and manager of the Appellant entities.

4. Since the Receivership Order was granted, the Receiver has issued two reports and sought and obtained approval of a sales process from the Commercial List. In this respect, I attach:

- (a) as **Exhibit "A"** the First Report of the Receiver dated December 20, 2021, without appendices;
- (b) as **Exhibit "B"** the Second Report of the Receiver dated February 3, 2022, without appendices;
- (c) as **Exhibit "C"** the Notice of Motion of the Receiver dated February 3, 2022 (the **Sales Motion**);
- (d) as **Exhibit "D"** the Notice of Motion of the Appellants (Respondents in the Application) dated February 8, 2022, in response to the Sales Motion; and
- (e) as **Exhibit "E"** the Order and Endorsement of Justice Conway dated February 9, 2022, on the Sales Motion.

5. I make this affidavit in relation to the motion by the Respondent for the admission of fresh evidence on the appeal and for no other purpose.

SWORN before me remotely by Paul Baik stated as being located at the City of Toronto in the Province of Ontario, before me at the City of Mississauga in the Province of Ontario, on this 7th day of March, 2022, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.



Paul Baik



Commissioner for taking affidavits

Michelle Spain, a Commissioner, etc.,
Province of Ontario, for the Government of Ontario,
Ontario Securities Commission.
Expires March 22, 2024.

This is Exhibit "A" referred to in the
affidavit of Paul Baik
sworn before me, this 7th day of March, 2022

A handwritten signature in black ink, appearing to read "Michelle Spain", written over a horizontal dotted line.

A Commissioner for Taking Affidavits

Michelle Spain, a Commissioner, etc.,
Province of Ontario, for the Government of Ontario,
Ontario Securities Commission.
Expires March 22, 2024.



**First Report to Court of
KSV Restructuring Inc.
as Receiver and Manager of
Go-To Developments Holdings Inc. and those
companies listed on Appendix “B”**

December 20, 2021

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COURT FILE NO. CV-21-00673521-CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:**ONTARIO SECURITIES COMMISSION****APPLICANT****- AND -**

GO-TO DEVELOPMENTS HOLDINGS INC., OSCAR FURTADO, FURTADO HOLDINGS INC., GO-TO DEVELOPMENTS ACQUISITIONS INC., GO-TO GLENDALE AVENUE INC., GO-TO GLENDALE AVENUE LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK II INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK II LP, GO-TO NIAGARA FALLS CHIPPAWA INC., GO-TO NIAGARA FALLS CHIPPAWA LP, GO-TO NIAGARA FALLS EAGLE VALLEY INC., GO-TO NIAGARA FALLS EAGLE VALLEY LP, GO-TO SPADINA ADELAIDE SQUARE INC., GO-TO SPADINA ADELAIDE SQUARE LP, GO-TO STONEY CREEK ELFRIDA INC., GO-TO STONEY CREEK ELFRIDA LP, GO-TO ST. CATHARINES BEARD INC., GO-TO ST. CATHARINES BEARD LP, GO-TO VAUGHAN ISLINGTON AVENUE INC., GO-TO VAUGHAN ISLINGTON AVENUE LP, AURORA ROAD LIMITED PARTNERSHIP AND 2506039 ONTARIO LIMITED

RESPONDENTS

**APPLICATION UNDER
SECTIONS 126 AND 129 OF THE *SECURITIES ACT*, R.S.O. 1990, C. S.5, AS AMENDED**

**FIRST REPORT OF
KSV RESTRUCTURING INC.
AS RECEIVER AND MANAGER**

DECEMBER 20, 2021

1.0 Introduction

1. Pursuant to an application (the "Application") by the Ontario Securities Commission (the "OSC") under sections 126 and 129 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended, the Ontario Superior Court of Justice (Commercial List) (the "Court") made an order on December 10, 2021 (the "Receivership Order") appointing KSV Restructuring Inc. ("KSV") as the receiver and manager (the "Receiver") of the real property listed in Appendix "A" (the "Real Property") and all the other assets, undertakings and properties of the companies (the "Companies") listed in Appendix "B" (together with the Real Property, the "Property"). A copy of the Receivership Order is provided in Appendix "C" and a copy of the Endorsement of Mr. Justice Pattillo is provided in Appendix "D".

2. This report (the “Report”) is filed by KSV in its capacity as Receiver.
3. The principal purposes of the receivership proceedings are to allow the Receiver to take possession and control of the Property and to maximize recoveries for the Companies’ creditors and investors through the sale, refinancing, development or redevelopment of the Real Property.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about these proceedings; and
 - b) summarize the Receiver’s activities and its material findings since the date of its appointment.

1.2 Restrictions

1. In preparing this Report, the Receiver has relied upon discussions with Oscar Furtado, the directing mind of the Companies, and Shoaib Ghani, the Companies’ Head of Accounting, the Companies’ unaudited financial information, discussions with various stakeholders in these proceedings, and the Application materials (collectively, the “Information”).
2. The Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that complies with Canadian Auditing Standards (“CAS”) pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance as contemplated under the CAS in respect of the Information. Any party wishing to place reliance on the Information should perform its own diligence. As the Receivership Order was issued five (5) business days prior to the date of this Report, the findings in this Report are preliminary and subject to change.

2.0 Background

1. The Companies are developers of residential real estate projects in Ontario. The Companies have nine projects under development (each a “Project”, and collectively the “Projects”). The Receiver understands that early-stage construction has commenced on one Project and that the other Projects are in the preliminary development stage.
2. Background information regarding the Companies and the reasons that the OSC sought the appointment of the Receiver are provided in the affidavit of Stephanie Collins (the “Collins Affidavit”), Senior Forensic Accountant in the Enforcement Branch of the OSC, sworn on December 6, 2021. A copy of the Collins Affidavit, together with all other Court materials filed to-date in these proceedings, is available on the Receiver’s website at: <https://www.ksvadvisory.com/experience/case/go-to>.

3.0 Receiver's Activities

1. The Receivership Order was distributed by email to the service list in this matter by Mr. Justice Pattillo shortly after 10:00 pm on Friday, December 10, 2021. At 6:36 am on Saturday, December 11, 2021, the Receiver sent an email to Mr. Furtado to request a meeting with him at the Companies' head office as soon as possible over the weekend. The Receiver also left a voice mail message for Mr. Furtado at approximately 9:30 am on the same day requesting a meeting as soon as possible.
2. Aird & Berlis LLP ("Aird & Berlis"), the Receiver's counsel, was contacted on December 11, 2021 by Miller Thomson LLP ("Miller Thomson"), which advised that it was in the process of being retained as counsel to the Companies. Aird & Berlis and the Receiver attended a call on December 12, 2021 with Miller Thomson to, *inter alia*, set a time for a meeting between Mr. Furtado and the Receiver. Following the call, Miller Thomson advised that Mr. Furtado was available to meet the Receiver at noon on Monday, December 13, 2021. The Receiver's representatives met with Mr. Furtado and Mr. Ghani during the afternoon of December 13, 2021 and all day on December 14, 2021.
3. A summary of the Receiver's material findings since the date of its appointment is provided below.

3.1 Adelaide LP

1. Go-To Spadina Adelaide Square LP ("Adelaide LP") owns the Real Property located at 355 Adelaide Street West and 46 Charlotte Street in downtown Toronto (the "Adelaide Property"), which is the Companies' most significant Project from a value perspective (the "Adelaide Project").
2. The Application was heard on Thursday, December 9, 2021. On Friday, December 10, 2021, before a decision had been released concerning the Application, Adelaide LP and Go-To Spadina Adelaide Square Inc. executed an agreement of purchase and sale to sell the Adelaide Property (the "Offer"), with a proposed purchaser, whose name is being kept confidential for the purpose of this Report. The Offer is subject to the approval of the Adelaide LP investors, and, if obtained, the proposed purchaser has 120 days to perform due diligence. The Offer includes an insignificant deposit, which the real estate agent for the Adelaide Property (the "Agent") has advised is in the process of being funded.¹
3. In discussions between the Receiver and the Agent, the Agent advised the Receiver that he presented the Adelaide Property opportunity to a small number of parties. The Agent also advised that he has a business relationship with the proposed purchaser and that he presented the opportunity to acquire the Adelaide Property to the proposed purchaser at a price suggested by Mr. Furtado.

¹ The Receiver has not yet determined if this offer should move forward and if so, the terms on which it should move forward.

4. Adelaide LP's trial balance reflects various non-arm's length payables, including amounts owing to Mr. Furtado (\$1.3 million) and Hans Jain² (\$2.6 million), as well as the balance of a demand loan owing to Adelaide Square Developments Inc. ("ASD") in the amount of \$10.4 million, which company and transaction is the subject of extensive discussion in the Collins Affidavit.
5. The Receiver has reviewed Adelaide LP's third quarter interim financial statements dated September 30, 2021 (the "September 30th Statements") (which were provided to at least one investor) and the Companies' audited financial statements for fiscal 2020 (together with the September 30th Statements, the "Financial Statements"). Note 4 of each of the Financial Statements describes the loan from ASD. Each of Mr. Furtado and Anthony Malanca, an individual with several connections to the Companies, is believed to own 11% of ASD. The loan from ASD is not identified as a related party transaction in the Financial Statements.
6. Anthony Marek has invested approximately \$13 million in Adelaide LP. He is its largest investor. Through Northridge Maroak Developments Inc. ("Northridge"), Mr. Marek is also a mortgagee of Adelaide LP. The September 30th Statements reflect the principal amount of the loan owing to Northridge as \$18,489,000. The loan matures on October 3, 2022.
7. On December 17, 2021, the Receiver and Aird & Berlis spoke with Mr. Marek's legal counsel. Mr. Marek's counsel advised of his client's concerns regarding, *inter alia*, a lack of financial disclosure by Mr. Furtado, the relationship between Mr. Furtado and ASD and various related party transactions. Mr. Marek's counsel expressed his client's view that Adelaide LP should not remain under the control of Mr. Furtado and advised that he believes that the receivership proceedings should continue.

3.2 Liquidity

1. The Companies have bank accounts at Royal Bank of Canada ("RBC"), The Toronto-Dominion Bank ("TD") and Meridian Credit Union ("Meridian"). As reflected in the schedule below, the Companies' cash balances are a small fraction of the Companies' accounts payable³. The Companies do not appear to have liquidity to advance their projects or to fund overhead costs.

(unaudited; \$)	Cash	Accounts Payable	Difference
Go-To Glendale Avenue Inc.	125,933	539,624	(413,690)
Go-To Major Mackenzie South Block Inc.	4,058	971,666	(967,608)
Go-To Niagara Falls Chippawa Inc.	541	271,776	(271,235)
Go-To Niagara Falls Eagle Valley Inc.	10,374	1,315,111	(1,304,737)
Go-To Spadina Adelaide Square Inc.	12,798	7,657,763	(7,644,965)
Go-To Stoney Creek Elfrida Inc.	19,514	335,885	(316,371)
Go-To St. Catharines Beard Inc.	111	47,018	(46,906)
Go-To Vaughan Islington Avenue Inc.	9,275	497,051	(487,776)
2506039 Ontario Limited	120,869	266,489	(145,620)
Total	303,474	11,902,383	(11,598,909)

² Mr. Jain is discussed in the Collins Affidavit and is believed to be a related party.

³ The accounts payable are as of either September 30 or October 31, 2021. The cash balances are as of December 13, 2021, with the exception of the Meridian account which is as of October 31, 2021. The accounts payable and cash balances were provided to the Receiver by Mr. Ghani.

2. Note 1 to the September 30th Statements addresses Adelaide LP's plans to fund its business. It states, "[T]he project development plans have entered into the second round of the submission being presented to Government authorities to seek approval. The timing of final approval is uncertain. **Management believes that working capital requirements along with ability to meet existing loan obligations can be met through refinancing and issuance of new Partnership units.**" (Emphasis added.) This note confirms Adelaide LP's liquidity issue and the proposed solution – refinancing and the issuance of new partnership units.

3.3 Eagle Valley Project

1. On Wednesday December 15, 2021, the Receiver advised the project manager (the "EV Project Manager")⁴ of the Eagle Valley Project of the inability of Go-To Niagara Falls Eagle Valley LP (the "Go-To Niagara LP") to fund the construction costs of the Eagle Valley Project due to its illiquidity. On Friday, December 17, 2021, the Receiver sent a letter to the EV Project Manager advising that work on the site should be suspended as there is no ability to pay for services and supplies at this time. The Receiver intends to work with the EV Project Manager to consider how to advance the Eagle Valley Project, including sourcing funding for it, if possible.
2. The Receiver understands that at the commencement date of the receivership, Mr. Furtado and the EV Project Manager were in the process of negotiating financing for the Eagle Valley Project. The Receiver understands that Mr. Furtado was also in the process of negotiating various other loans and/or refinancings for certain of the other Projects. The Receiver does not presently have sufficient information as to whether these transactions can be completed or the stage of each of the financing discussions.
3. A lien in the amount of \$431,940 was filed on December 10, 2021 against the Eagle Valley Project by HK United Construction Ltd. ("HK"). Liens have also been filed against the Eagle Valley Project by two other parties.

3.4 Vaughan Project

1. The Receiver spoke with the former project manager (the "Vaughan Project Manager") of the Project (the "Vaughan Islington Project") owned by Go-To Vaughan Islington Avenue LP ("Vaughan Islington LP"). The Vaughan Project Manager advised that it terminated its project management agreement in early 2021 with Vaughan Islington LP and Go-To Developments Holdings Inc. due to concerns regarding the contemplated development for that Project.

⁴ The EV Project Manager is also the construction manager of the Eagle Valley Project. The EV Project Manager is also the project and construction manager on three additional Projects, and has various other financial interests in these Projects.

3.5 Glendale Project

1. Torkin Manes LLP (“Torkin Manes”) was counsel to Mr. Furtado and to the Companies prior to these proceedings and it continues to have roles for both. On December 15, 2021, the Receiver and Aird & Berlis discussed with Torkin Manes certain matters related to the receivership proceedings. These discussions included:
 - a) a potential refinancing of the mortgages on the Real Property of the Go-To Glendale Avenue LP Project (the “Glendale Project”) by a loan from a private lender. At this time, it is uncertain if the private lender is prepared to proceed with the refinancing. The Receiver advised Torkin Manes that it requires time to understand the terms of the refinancing and the status of the Glendale Project; and
 - b) the Glendale Project has approximately twenty (20) to twenty-five (25) condominium presales. Torkin Manes advised that all presales are to friends and family of Mr. Furtado. On the day prior to the issuance of the Receivership Order, seven (7) of the purchasers of the pre-sold units terminated their agreements of purchase and sale for units in the Glendale Project. The Receiver does not know the reason for the termination of these agreements.

3.6 Other Activities

1. In addition to the activities described above, the Receiver’s activities have included:
 - a) having Aird & Berlis register the Receivership Order on title to the Real Property;
 - b) commencing a review of the viability of each of the Projects, including working with certain of the Companies’ consultants for this purpose;
 - c) reviewing the status of the Companies’ refinancing efforts;
 - d) sending notices advising of the receivership to mortgagees registered on title, investors, unsecured creditors and Canada Revenue Agency;
 - e) speaking and corresponding with various mortgagees on the Real Property;
 - f) arranging with RBC, TD Bank and Meridian for the Companies’ bank accounts to be restricted to processing deposits only;
 - g) arranging for a third-party contractor to attend at each Project location for the purpose of understanding the state of each Project and the Real Property;
 - h) making arrangements with the third-party contractor and the EV Project Manager to address safety issues at certain of the Real Property;
 - i) reviewing the Companies’ insurance policies and confirming that insurance is in place;
 - j) arranging with Mr. Ghani to update the Companies’ accounting records;
 - k) corresponding with the property manager of the Adelaide Property;

- l) imaging the Companies' server, the computers and emails of its employees and the personal electronic devices of Mr. Furtado and Mr. Ghani;
- m) negotiating a privilege protocol with Miller Thomson concerning the imaged documentation; and
- n) preparing this Report.

* * *

All of which is respectfully submitted,



**KSV RESTRUCTURING INC.,
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF
GO-TO DEVELOPMENTS HOLDINGS INC. AND THOSE COMPANIES LISTED ON APPENDIX
“B” AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

This is Exhibit “B” referred to in the
affidavit of Paul Baik
sworn before me, this 7th day of March, 2022

A handwritten signature in black ink, appearing to read "Michelle Spain", written over a horizontal dotted line.

A Commissioner for Taking Affidavits

**Michelle Spain, a Commissioner, etc.,
Province of Ontario, for the Government of Ontario,
Ontario Securities Commission.
Expires March 22, 2024.**



**Second Report to Court of
KSV Restructuring Inc.
as Receiver and Manager of
Go-To Developments Holdings Inc. and those
companies listed on Appendix “B”**

February 3, 2022

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COURT FILE NO. CV-21-00673521-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:**ONTARIO SECURITIES COMMISSION****APPLICANT****- AND -**

GO-TO DEVELOPMENTS HOLDINGS INC., OSCAR FURTADO, FURTADO HOLDINGS INC., GO-TO DEVELOPMENTS ACQUISITIONS INC., GO-TO GLENDALE AVENUE INC., GO-TO GLENDALE AVENUE LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK II INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK II LP, GO-TO NIAGARA FALLS CHIPPAWA INC., GO-TO NIAGARA FALLS CHIPPAWA LP, GO-TO NIAGARA FALLS EAGLE VALLEY INC., GO-TO NIAGARA FALLS EAGLE VALLEY LP, GO-TO SPADINA ADELAIDE SQUARE INC., GO-TO SPADINA ADELAIDE SQUARE LP, GO-TO STONEY CREEK ELFRIDA INC., GO-TO STONEY CREEK ELFRIDA LP, GO-TO ST. CATHARINES BEARD INC., GO-TO ST. CATHARINES BEARD LP, GO-TO VAUGHAN ISLINGTON AVENUE INC., GO-TO VAUGHAN ISLINGTON AVENUE LP, AURORA ROAD LIMITED PARTNERSHIP AND 2506039 ONTARIO LIMITED

RESPONDENTS

**APPLICATION UNDER
SECTIONS 126 AND 129 OF THE *SECURITIES ACT*, R.S.O. 1990, C. S.5, AS AMENDED**

**SECOND REPORT OF
KSV RESTRUCTURING INC.
AS RECEIVER AND MANAGER**

FEBRUARY 3, 2022

1.0 Introduction

1. Pursuant to an application by the Ontario Securities Commission (the "OSC") under sections 126 and 129 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Application"), the Ontario Superior Court of Justice (Commercial List) (the "Court") made an order on December 10, 2021 (the "Receivership Order") appointing KSV Restructuring Inc. ("KSV") as the receiver and manager (the "Receiver") of the real property listed in Appendix "A" (the "Real Property"), and all the other assets, undertakings and properties of the companies (the "Companies") listed in Appendix "B" (together with the Real Property, the "Property"). A copy of the Receivership Order is provided in Appendix "C" and a copy of the Endorsement of Mr. Justice Pattillo is provided in Appendix "D".

2. On December 24, 2021, a motion by certain of the respondents named in the Application (the “Receivership Respondents”) to stay the Receivership Order pending an appeal of that Order was heard by the Ontario Court of Appeal (the “Court of Appeal”). On December 29, 2021, the Court of Appeal issued reasons dismissing the Receivership Respondents’ motion. A copy of the Court of Appeal decision is provided in Appendix “E”.
3. A principal purpose of these receivership proceedings is to allow the Receiver to take possession and control of the Property and to maximize recoveries for the Companies’ stakeholders through the sale, refinancing and/or development/redevelopment of the Real Property.
4. This report (the “Report”) is filed by KSV in its capacity as Receiver.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about these proceedings;
 - b) summarize the proposed sale process for the Real Property (the “Sale Process”);
 - c) summarize discussions that are ongoing with the owners (the “Owners”) of real property adjacent to or that form an assembly with the Real Property owned by:
 - i. 2506039 Ontario Limited (“Go-To Aurora”), being the Real Property having a municipal address of 4951 Aurora Road, Stouffville (the “Aurora Property”); and
 - ii. Go To Vaughan Islington Avenue LP (“Go-To Vaughan”), being the Real Property having a municipal address of 7386 Islington Avenue, Vaughan (the “Vaughan Property”),

so that the real property owned by Go-To Aurora and Go-To Vaughan could be jointly marketed for sale in the Sale Process with the respective Owners on the basis described in Section 3 of this Report;
 - d) provide an update on the Receiver’s activities related to Go-To Spadina Adelaide Square LP (“Adelaide LP”), which owns the real property located at 355 Adelaide Street West and 46 Charlotte Street in downtown Toronto (the “Adelaide Property”);
 - e) summarize the Receiver’s activities since the date of its First Report to Court dated December 20, 2021 (the “First Report”), a copy of which is provided in Appendix “F”; and
 - f) recommend that this Court issue an Order:
 - i. approving the Sale Process; and
 - ii. approving the First Report, this Report and the Receiver’s activities as set out in both the First Report and this Report.

1.2 Restrictions

1. In preparing this Report, the Receiver has relied upon: (i) discussions with Oscar Furtado, the directing mind of the Companies (“Furtado”), and Shoaib Ghani, the Companies’ Head of Accounting (“Ghani”); (ii) the Companies’ unaudited financial information; (iii) discussions with various stakeholders in these proceedings (including their legal representatives); and (iv) the Application materials (collectively, the “Information”).
2. The Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that complies with Canadian Auditing Standards (“CAS”) pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance as contemplated under the CAS in respect of the Information. Any party wishing to place reliance on the Information is required to perform its own diligence.

2.0 Background

1. The Companies are developers of nine residential real estate projects in Ontario, each of which is in early stages of development (each a “Project”, and collectively the “Projects”). The name and municipal address of each of the Projects is provided below.

Project Name	Address
Go-To Niagara Falls Chippawa	4210 Lyons Creek Road, Niagara Falls, ON 4248 Lyons Creek Road, Niagara Falls, ON
Go-To Niagara Falls Eagle Valley (“Eagle Valley Project”)	2334 St. Paul Avenue, Niagara Falls, ON
Go-To Glendale Avenue (“Glendale Project”)	75 Oliver Lane Street, St. Catharines, ON
Go-To Major Mackenzie (“Major Mack Project”)	185 Major MacKenzie Drive East, Richmond Hill, ON 197 Major MacKenzie Drive East, Richmond Hill, ON 209 Major MacKenzie Drive East, Richmond Hill, ON 191 Major MacKenzie Drive East, Richmond Hill, ON 203 Major MacKenzie Drive East, Richmond Hill, ON 215 Major MacKenzie Drive East, Richmond Hill, ON
Go-To Spadina Adelaide Square (“Adelaide Project”)	355 Adelaide Street West, Toronto, ON 46 Charlotte Street, Toronto, ON
Go-To St. Catharines Beard Inc.	19 Beard Place, St. Catharines, ON
Go-To Stoney Creek Elfrida	Highland Road, Hamilton, ON Upper Centennial Parkway, Hamilton, ON
Go-To Vaughan Islington Avenue	7386 Islington Avenue, Vaughan, ON
Go-To Aurora Road	4951 Aurora Road, Stouffville, ON

2. The head office of the Companies is located at 1267 Cornwall Road, #201, Oakville, Ontario.

3. As of the date of the Receivership Order, the Companies employed six individuals.¹ Four out of six of the Companies' employees are relatives of Furtado. Two employees have been terminated since the commencement of these proceedings.
4. The Companies' various limited partnership agreements contemplate payments of interest to the limited partners, notwithstanding that the Projects are in the development stage, do not generate any revenue and the Companies do not have the capital to pay the limited partners. As of the date of the Receivership Order, the combined cash balance of the Companies compared to their accounts payable balances was as follows:²

	(unaudited; \$)		
	Cash	Accounts Payable	Difference
Go-To Glendale Avenue Inc.	125,933	539,624	(413,690)
Go-To Major Mackenzie South Block Inc.	4,058	971,666	(967,608)
Go-To Niagara Falls Chippawa Inc.	541	271,776	(271,235)
Go-To Niagara Falls Eagle Valley Inc.	10,374	1,315,111	(1,304,737)
Go-To Spadina Adelaide Square Inc.	12,798	7,657,763	(7,644,965)
Go-To Stoney Creek Elfrida Inc.	19,514	335,885	(316,371)
Go-To St. Catharines Beard Inc.	111	47,018	(46,906)
Go-To Vaughan Islington Avenue Inc.	9,275	497,051	(487,776)
2506039 Ontario Limited	120,869	266,489	(145,620)
Total	303,474	11,902,383	(11,598,909)

5. Detailed background information regarding the Companies and the reasons that the OSC sought the appointment of the Receiver are provided in the affidavit of Stephanie Collins, Senior Forensic Accountant in the Enforcement Branch of the OSC, sworn on December 6, 2021 (the "Collins Affidavit"). Additional information regarding these proceedings is also provided in the First Report. A copy of the Collins Affidavit, the First Report and other Court materials filed to-date in these proceedings are available on the Receiver's website at: <https://www.ksvadvisory.com/experience/case/go-to>.

3.0 Sale Process

1. Since the date of its appointment, the Receiver has been familiarizing itself with each of the Projects with the objective of maximizing recoveries for all stakeholders in these proceedings. In this regard, the Receiver has consulted with:
 - parties who have expressed an interest in developing or acquiring certain of the Projects;
 - project consultants, including planners, architects and project/construction managers;

¹ Mr. Furtado is not an employee or contractor of the Companies. Mr. Furtado was not drawing a salary prior to the date of the Receivership Order and he has not been paid any remuneration during the receivership.

² Cash balances are as of the date of the receivership. Accounts payable balances are as of either September 30 or October 31, 2021. The accounts payable and cash balances were provided to the Receiver by Ghani. In due course, a claims process may be required for each of the Companies.

- various law firms that acted for the Companies, the Companies' secured lenders and other stakeholders;
 - appraisers and cost consultants;
 - realtors;
 - investors in several of the Projects; and
 - representatives of the Companies, including Furtado and Ghani.
2. The Receiver has spoken with several mortgagees and/or their legal counsel to facilitate cooperation throughout these proceedings.
 3. The Receiver has retained Altus Group ("Altus"), a real estate advisory services firm, to assist the Receiver in considering options to maximize value for the Projects. In that regard, the Receiver and Altus have assembled information on each Project to understand their status, development potential and valuation.
 4. The Receiver is of the view that it is appropriate at this time to commence the Sale Process for the following reasons:
 - a) *Stage of Development:* Construction has not commenced on any Project except for early-stage construction on the Eagle Valley Project. Planning and development activity is ongoing for all of the Projects. Many Projects are in the early-stages of the development process;
 - b) *Liquidity:* The Companies do not have the liquidity to continue to advance the Projects, as evidenced by their nominal cash balances reflected in the table in Section 2 above. Each Project will require construction financing, which has not yet been finalized for any of the Projects. The Receiver is of the view that it is unlikely that a construction lender will finance a company in receivership;
 - c) *Professional Fees:* The professional costs of a receivership to advance the Projects from their development stages to completion will materially erode the profitability of the Projects, particularly given that construction has not commenced on any Project (except for the preliminary activity on the Eagle Valley Project) and many of the Projects are relatively small; and
 - d) *Stakeholder Concerns:* Certain mortgagees have advised the Receiver that a sale process for the Projects should be commenced in the near term otherwise they may bring motions to lift the stay of proceedings to commence power of sale processes.

3.1 Realtor Selection Process

1. On January 17, 2022, the Receiver invited five national real estate brokerages to submit proposals to list the Real Property for sale (the "RFP Process"). The RFP Process set out the Receiver's criteria for the selection of the successful realtor or realtors. The Receiver requested that proposals be submitted by 4 pm on January 26, 2022. A copy of the RFP Process materials is provided as Appendix "G".

2. Four of the five realtors submitted a proposal (the “Realtor Proposals”). Attached as Confidential Appendix “1” is a schedule comparing the key terms of each proposal submitted in the RFP Process. The schedule includes the indicative range of values provided by the Realtors for each Real Property, as well as each broker’s proposed commission structure.
3. On January 28 and 29, 2022, the Receiver met with each of the realtors to review their proposals, discuss their views on certain of the Projects and understand their approach to market the Real Property for sale.
4. As of the date of this Report, the Receiver has selected: (i) Colliers Macaulay Nicolls Inc. (“Colliers”) to market the Adelaide Project; and (ii) CBRE Limited (“CBRE”, and together with Colliers, the “Realtors”) to market the balance of the Projects. This decision was based on, among other things, the Realtors’ knowledge of the Projects, their familiarity with the applicable market, their proposed marketing process, discussions with certain mortgagees and the experience of their teams in the relevant markets.

3.2 Sale Process Description

1. The recommended Sale Process is set out in the table below. The timelines are based on KSV’s significant experience selling real estate in court-supervised proceedings and reflect guidance from the Realtors. The timelines in this process assume a Sale Process commencement date of February 28, 2022 for each Real Property.
2. To the extent that the Sale Process commences earlier or later than that date for one or more of the Projects, the deadline will be correspondingly adjusted.

Summary of Sale Process		
Milestone	Description of Activities	Timeline
<i>Phase 1 – Underwriting</i>		
Prepare marketing materials	<ul style="list-style-type: none"> ➤ Realtors and the Receiver to: <ul style="list-style-type: none"> ○ prepare an offering summary for each Project; ○ populate a virtual data room; and ○ prepare a confidentiality agreement (“CA”). 	In process
Prospect Identification	<ul style="list-style-type: none"> ➤ Realtors to develop a master prospect list. ➤ Realtors will qualify and prioritize prospects. ➤ Realtors will have pre-marketing discussions with targeted prospects. ➤ Realtors to engage in discussions with planners and municipalities. ➤ Realtors to consult with the Receiver regarding the above and will be required to provide scheduled updates on a per Project basis. 	

Summary of Sale Process		
Milestone	Description of Activities	Timeline
<i>Phase 2 – Marketing and Diligence</i>		
Stage 1	<ul style="list-style-type: none"> ➤ Mass market introduction, including: <ul style="list-style-type: none"> ○ offering summary and marketing materials printed, including detailed marketing brochure; ○ publication of the acquisition opportunity in such journals, publications and online as the Realtor and the Receiver believe appropriate to maximize interest in this opportunity; ○ post “for sale” signage at each Real Property, to the extent applicable; ○ telephone and email canvass of prospects; ○ posting of the acquisition opportunity on MLS for each Project (other than the Adelaide Project), either unpriced or with pricing guidance (based on final guidance from the Realtor); and ○ meet with and interview prospective bidders. ➤ Receiver and its legal counsel to prepare a Vendor’s form of Purchase and Sale Agreement (the “PSA”). ➤ Realtors to provide detailed information to qualified prospects which execute the CA, including access to the data room and other information that becomes available to the Receiver, including any reports associated with the Projects. ➤ Realtors and Receiver to facilitate all diligence by interested parties. ➤ Receiver to arrange for updated or new phase 1 and 2 environmental reports to be prepared for each Real Property (where applicable) to facilitate the timely completion of due diligence. 	<p>February 28, 2022</p> <p>to</p> <p>Bid Deadline (see Stage 2)</p>
Stage 2 – Bid Deadline, <u>all Projects other than Adelaide Property</u>	<ul style="list-style-type: none"> ➤ Prospective purchasers to submit PSAs, with any changes to the PSA blacklined 	<p>To be determined based on market feedback for each property, but estimated to be April 7, 2022</p>
Stage 2 – Bid Deadline, <u>Adelaide Property</u>	<ul style="list-style-type: none"> ➤ Prospective purchasers to submit PSAs, with any changes to the PSA blacklined 	<p>April 7, 2022</p>

Summary of Sale Process		
Milestone	Description of Activities	Timeline
<i>Phase 3 – Offer Review and Negotiations</i>		
Short-listing of Offers	<ul style="list-style-type: none"> ➤ Short listing bidders. ➤ Further bidding - Interested bidders may be asked to improve their offers. The Receiver may invite certain parties to participate in as many rounds of bidding as is required to maximize the consideration and minimize closing risk. The Receiver may also seek to clarify terms of the offers submitted and to negotiate such terms. ➤ The Receiver will be at liberty to consult with mortgagees regarding the offers received, subject to any confidentiality safeguards that the Receiver believes appropriate. 	<p><u>Adelaide Property:</u> 15-30 days from Bid Deadline</p> <p><u>All Other Projects:</u> 5-10 days from Bid Deadline</p>
Selection of Successful Bid(s)	<ul style="list-style-type: none"> ➤ Select successful bidder(s) and finalize definitive documents. The Receiver will select the successful bidder(s), having regards to, among other things: <ul style="list-style-type: none"> o total consideration (cash and assumed liabilities); o form of consideration being offered, including the value of any carried interest; o third-party approvals required, if any; o conditions, if any; and o other factors affecting the speed and certainty of closing and the value of the offers. 	<p><u>Adelaide Property:</u> 30 days from Bid Deadline</p> <p><u>All Other Projects:</u> 30 to 60 days from Bid Deadline (will be shortened, where possible)</p>
Sale Approval Motion(s) and Closing(s)	<ul style="list-style-type: none"> ➤ Upon execution of definitive transaction documents, the Receiver will seek Court approval of the successful offer(s), on not less than 7 calendar days' notice to the service list and registered secured creditors. 	45-75 days from Bid Deadline
Closings	<ul style="list-style-type: none"> ➤ As soon as possible following Court approval 	ASAP

3. Additional terms of the Sale Process include:

- a) the Receiver will consider whether retaining a carried interest in certain of the Real Property can enhance recoveries for stakeholders;
- b) the Real Property will be marketed and sold on an “as-is, where-is” basis, with standard representations and warranties for a receivership transaction;
- c) to the extent permitted by law, all of the right, title and interest of the Companies in the Real Property will be sold free and clear of all pledges, liens, security interests, encumbrances and claims, pursuant to approval and vesting orders to be sought by the Receiver;

- d) the Receiver will have the right to reject any and all offers, including the highest and best offers;
- e) the Receiver will have the right to reject all purchase agreements on any of the Projects. In this regard, the table below sets out the number of known purchase agreements on the Projects:

Project Name	Purchase Agreements
Eagle Valley	94 ³
Glendale	26 ⁴
Major Mack	4 ⁵

- f) if, in the Receiver's sole discretion, it will assist to maximize recoveries, the Receiver will have the right to: (i) waive strict compliance with the terms of the Sale Process, including any of the deadlines in the table above; and (ii) modify and adopt such other procedures that will better promote the sale of the Real Property or increase the aggregate recoveries from same for stakeholders;
- g) any material modifications to, or the termination of, the Sale Process for any or all of the Projects shall require Court approval; however, the Receiver shall have the discretion to adjust any timeline in the Sale Process to the extent it feels necessary to maximize value; and
- h) any transaction or transactions by the Receiver for the Property shall be subject to Court approval.

3.3 Aurora Property

1. Go-To Aurora owns the Aurora Property. The Receiver understands that Go-To Aurora planned to develop the Aurora Property in coordination with the owner/owners of the four adjacent parcels (the "Other Parcels"). Gerry Brouwer represents the owners of the Other Parcels.

³ Per the deposit trust report as of December 31, 2021 provided by Schneider Ruggiero LLP, the escrow agent for this project.

⁴ Per the deposit trust report as of November 30, 2021 provided by Torkin Manes LLP, the escrow agent for this project. Of these, 7 non-arms' length purchasers executed Mutual Release and Termination Agreements on December 9, 2021 but have not received a return of their deposits.

⁵ Per the deposit trust report as of December 31, 2021 provided by Schneider Ruggiero LLP, the escrow agent for this project. The Receiver understands that deposits were returned in early December 2021 (but potentially not cashed) to three of the four purchasers.

2. A map reflecting the Aurora Property (in blue) and the other parcels is provided below:



3. At the date of the Receivership Order, Hillmount Capital Mortgage Holdings Inc. and Hillmount Capital Inc. (together, "Hillmount") had registered a mortgage on title to the Aurora Property. The mortgage was also registered on title to the Other Parcels. Pursuant to a letter dated December 17, 2021, Hillmount advised that the balance owing to it was approximately \$2.1 million.
4. On January 25, 2022, Hillmount advised the Receiver that it had assigned its interest in its mortgage over the Aurora Property and the Other Parcels to 1000086921 Ontario Inc., a company that the Receiver understands is owned or controlled by Mr. Brouwer.
5. The Receiver and Mr. Brouwer are discussing the terms pursuant to which the Aurora Property and the Other Parcels would be jointly marketed for sale as one assembly (the "Aurora Assembly") in the Sale Process. If the Receiver and Mr. Brouwer agree to terms, offers for the Aurora Property would be solicited on both a stand-alone basis and as part of the Aurora Assembly. If terms cannot be reached, the Receiver will sell the Aurora Property on a stand-alone basis. The Receiver will update the Court of the status of these discussions on the return of the motion.

3.4 Vaughan Property

1. Go-To Vaughan owns the Vaughan Property. The Receiver understands that Go-To Vaughan planned to acquire and develop the Vaughan Property in coordination with the adjacent parcel located at 7400 Islington Avenue, Vaughan ("7400 Islington"). Go-To Vaughan's transaction related to 7400 Islington was not completed and is presently subject to litigation.

2. The Receiver has had preliminary discussions with counsel representing the owner of 7400 Islington to see if it would be amenable to a potential joint marketing of the two properties as an assembly, similar to the structure related to the Aurora Assembly. If terms can be finalized, the Vaughan Property would be marketed for sale by CBRE as an assembly and on a stand-alone basis. The Receiver will update the Court regarding the status of these discussions on the return of the motion.

3.5 Sale Process Recommendation

1. The Receiver recommends that the Court issue an order approving the Sale Process for the following reasons:
 - a) the Sale Process is reasonable and appropriate at this time based on the issues identified above, including: (i) the early development stage of the Projects; (ii) the illiquidity of the Projects; (iii) the cost and complexities associated with the Receiver dealing with all construction and selling activities, including projected professional costs; and (iv) feedback from mortgagees and investors;
 - b) the Sale Process is a fair, open and transparent process developed with input from the Realtors, and is intended to canvass the market broadly on an efficient basis to obtain the highest and best price;
 - c) the Sale Process is flexible and provides the Receiver with the timelines, procedures and flexibility that it believes are necessary to maximize value;
 - d) the Sale Process, as detailed in Section 3.2.2, includes procedures commonly used to sell real estate development projects;
 - e) the Receiver intends to retain Colliers and CBRE, each of which is a leading and well recognized brokerage, with the experience and expertise to market the Real Property for sale, including knowledge of the markets in which the Real Property is located and a marketing plan tailored to each Real Property;
 - f) if an agreement is reached with the Owners, the Aurora Property and the Vaughan Property will be marketed for sale as assemblies and on a stand-alone basis, which will provide the Receiver the opportunity to consider offers on both bases;
 - g) the PSA will include a provision that allows the Receiver to retain a carried interest in a Project, if justified by the economics; and
 - h) there will be no delay in commencing the Sale Process as the marketing materials are being prepared and the prospect lists and diligence information are being assembled.

3.6 Sealing Order

1. The Receiver is proposing to seal the summary of realtor proposals attached at Confidential Appendix “1” until further Order of the Court. If not sealed, prospective purchasers of the Projects would have access to the indications of value provided by the Realtors in the RFP Process, which may affect realizations. The Receiver believes that no party will be prejudiced if Confidential Appendix “1” is sealed. The salutary effects of sealing such information from the public record until further Order of the Court greatly outweigh the deleterious effects of not doing so under the circumstances. Accordingly, the Receiver believes the proposed sealing order is reasonable and appropriate in the circumstances.

4.0 Adelaide Property

1. Located in downtown Toronto, the Adelaide Property is the development site of the Companies’ most financially significant Project.
2. Prior to these proceedings, Adelaide LP had retained Colliers to lease the vacant space in the building. As of the date of the Receivership Order, the basement, second and sixth floors of the Adelaide Property were vacant and leases for certain tenants expire in 2022.
3. The Receiver has continued to retain Colliers to lease the vacant space, including reviewing expiring leases and dealing with the respective tenants to negotiate lease extensions. Leasing efforts are ongoing. Colliers is also marketing the vacant floors for lease and responding to inquiries from interested parties.
4. The Receiver will be considering Colliers’ recommendations as it relates to lease renewals and new lease arrangements having regard to:
 - a) the term of each lease – each lease will include a provision allowing the lease to be terminated by the landlord on six months’ notice to the tenant so that there is no delay in the development process; and
 - b) market rent.

5.0 Receiver’s Activities

1. In addition to the activities described above, the Receiver’s activities since the date of the First Report have included, among other things, the following:
 - a) corresponding with representatives of the Companies and their counsel regarding the Receiver’s information requests;
 - b) corresponding with the Companies’ insurance agents to confirm coverage;
 - c) familiarizing itself with each of the Projects, including working with certain of the Companies’ consultants for this purpose;
 - d) speaking and corresponding with various mortgagees on the Real Property and their counsel;

- e) arranging with Royal Bank of Canada, The Toronto-Dominion Bank and Meridian Credit Union for the Companies' bank accounts to be restricted to processing deposits only and to transfer funds on hand to the Receiver's accounts;
- f) corresponding with prospective lenders to provide term sheets to the Receiver in respect of its permitted borrowings pursuant to paragraph 24 of the Receivership Order;
- g) corresponding with RAR Litigation Lawyers, one of the law firms that formerly represented the Companies, regarding the status of outstanding litigation matters and funds held in its trust accounts;
- h) arranging with Ghani to update the Companies' accounting records;
- i) dealing with the property manager of the Adelaide Property;
- j) negotiating a document review protocol with Miller Thomson LLP, the Companies' counsel, concerning the review by the Receiver of potentially privileged documents as a result of its imaging of the Companies' servers, as well as the computers and other electronic devices of certain of the Companies' employees;
- k) reviewing correspondence between Aird & Berlis LLP, the Receiver's counsel, and Chaitons LLP, counsel to the plaintiff regarding litigation associated with the project owned by Go-To Vaughan;
- l) dealing with Capital Build Construction Management Corp. ("Capital Build"), which acted as project manager and construction manager of four of the Projects;
- m) reviewing various liens registered against the Real Property;
- n) corresponding with IBI Group, the planner involved in the Glendale Project, including with regards to an extension of the draft subdivision approval upon its expiry in May 2022;
- o) corresponding with Tarion regarding its interests in three of the Projects;
- p) corresponding with counsel for Trisura Guarantee Insurance Company, the surety for certain of the Projects;
- q) reviewing correspondence and pleadings from Moldaver Barristers, which acts as counsel representing Hans Jain, as plaintiff in respect of litigation involving certain of the Companies and Furtado;
- r) drafting an update notice to the Companies' investors and responding to their inquiries regarding this proceeding;
- s) responding to a summons issued by the OSC for the production of documents; and
- t) preparing this Report.

6.0 Conclusion

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1(1) (f) of this Report.

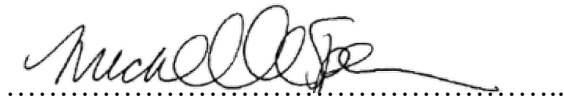
* * *

All of which is respectfully submitted,



**KSV RESTRUCTURING INC.,
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF
GO-TO DEVELOPMENTS HOLDINGS INC. AND THOSE COMPANIES LISTED ON APPENDIX
“B” AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

This is Exhibit “C” referred to in the
affidavit of Paul Baik
sworn before me, this 7th day of March, 2022

A handwritten signature in black ink, appearing to read "Michelle Spain", written over a horizontal dotted line.

A Commissioner for Taking Affidavits

Michelle Spain, a Commissioner, etc.,
Province of Ontario, for the Government of Ontario,
Ontario Securities Commission.
Expires March 22, 2024.

Court File No. CV-21-00673521-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N :

ONTARIO SECURITIES COMMISSION

Applicant

- and -

GO-TO DEVELOPMENTS HOLDINGS INC., OSCAR FURTADO, FURTADO HOLDINGS INC., GO-TO DEVELOPMENTS ACQUISITIONS INC., GO-TO GLENDALE AVENUE INC., GO-TO GLENDALE AVENUE LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK II INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK II LP, GO-TO NIAGARA FALLS CHIPPAWA INC., GO-TO NIAGARA FALLS CHIPPAWA LP, GO-TO NIAGARA FALLS EAGLE VALLEY INC., GO-TO NIAGARA FALLS EAGLE VALLEY LP, GO-TO SPADINA ADELAIDE SQUARE INC., GO-TO SPADINA ADELAIDE SQUARE LP, GO-TO STONEY CREEK ELFRIDA INC., GO-TO STONEY CREEK ELFRIDA LP, GO-TO ST. CATHARINES BEARD INC., GO-TO ST. CATHARINES BEARD LP, GO-TO VAUGHAN ISLINGTON AVENUE INC., GO-TO VAUGHAN ISLINGTON AVENUE LP, AURORA ROAD LIMITED PARTNERSHIP and 2506039 ONTARIO LIMITED

Respondents

**APPLICATION UNDER
Sections 126 and 129 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended**

**NOTICE OF MOTION
(Approval of Sale Process, Reports and Ancillary Matters)
(returnable February 9, 2022)**

KSV Restructuring Inc. (“KSV”), in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”), without security, of the real property listed on Schedule “A” hereto (the “**Real Property**”) and all the other assets, undertakings and properties (together with the Real Property, the “**Property**”) of each of the parties listed on Schedule “B” hereto (the “**Receivership Respondents**”), will make a motion to a Judge of the Ontario

Superior Court of Justice (Commercial List) (the “**Court**”) on the 9th day of February, 2022 at 12:00 PM, or as soon after that time as the motion can be heard, via the following Zoom coordinates: <https://airdberlis.zoom.us/j/86268104342>.

PROPOSED METHOD OF HEARING: The motion is to be heard:

- ☐ in writing under subrule 37.12.1 (1);
- ☐ in writing as an opposed motion under subrule 37.12.1 (4);
- ☐ in person;
- ☐ By telephone conference;
- ☒ By video conference.

THE MOTION IS FOR:

An order, substantially in the form included in the Motion Record,

- (a) Approving the proposed sale process (the “**Sale Process**”) as described and defined in the Second Report of the Receiver to the Court, dated February 3, 2022 (the “**Second Report**”);
- (b) Approving the First Report of the Receiver to the Court dated December 20, 2021 (the “**First Report**”) and the activities set out therein;
- (c) Approving the Second Report and the activities set out therein;
- (d) Sealing the realtor proposal summary (the “**Realtor Proposals**”) attached at Confidential Appendix “1” to the Second Report; and
- (e) Such further and other relief as the Court may find just.

THE GROUNDS FOR THE MOTION ARE:

BACKGROUND

- (a) On December 10, 2021, upon application by the Ontario Securities Commission (the “**OSC**”) pursuant to s. 126 and s. 129 of the *Securities Act*, RSO 1990, c. S.5, as amended, KSV was appointed Receiver over the Property of the Receivership Respondents (the “**Receivership Order**”) by Order of this Court;
- (b) The Receivership Order authorizes the Receiver to market and, with the approval of this Court, sell the Real Property;
- (c) The Real Property consists of nine properties throughout Ontario that are in early stages of development (each, a “**Project**” and collectively, the “**Projects**”), and are the principal assets of the Receivership Respondents;

SALE PROCESS

- (d) In anticipation of the Sale Process, the Receiver solicited five national real estate brokerages to submit proposals to act as realtors for the Real Property (the “**RFP Process**”), on the following timeline:
 - (i) **January 17, 2022:** Invitations for the RFP Process were sent out;
 - (ii) **January 26, 2022:** Proposals were due; and
 - (iii) **Final Selections (as of the date of the Second Report on February 3, 2022):**
 - (1) Colliers Macaulay Nicolls Inc. (“**Colliers**”) was selected by the Receiver as the Realtor for the Real Property owned by Go-To Spadina Adelaide Square LP located at 355 Adelaide St. West and 46 Charlotte St. in Toronto, ON (the “**Adelaide Property**”); and

- (2) CBRE Limited (“**CBRE**” and with Colliers, the “**Realtors**”) was selected by the Receiver as the Realtor for the remaining Real Property;
- (e) Having selected the Realtors, the Receiver is now seeking Court approval for the Sale Process;
- (f) The elements of the Sale Process and the Receiver’s views of them are discussed in detail in the Second Report;
- (g) The proposed Sale Process provides for the solicitation of potential purchases, marketing and advertising of the Real Property, procedure and deadlines for the submissions of bids, the criteria by which bids will be assessed, and the procedure for accepting a successful bid or bids;
- (h) The Sale Process is necessary to facilitate a transparent and efficient disposition of the Real Property and to maximize value for investors and stakeholders in the Projects by effective marketing by both the Realtors and the Receiver;
- (i) The intended Sale Process, with the assistance of the Realtors, contemplates a process that will launch on February 28, 2022 and involves three phases (each, a “**Phase**”), during which the Receiver will identify and solicit prospective bidders to submit binding sale proposals for the Real Property;
- (j) The deadline for submitting bids for the Adelaide Property is expected to be April 7, 2022, although deadlines may be revised by the Receiver in consultation with Colliers;
- (k) The deadline for submitting bids for all of the other Real Property is also expected to be April 7, 2022, although the deadline will be finalized in consultation with CBRE based on feedback from the market after the Sale Process commences;
- (l) The Sale Process has been prepared in consultation and over discussions with various secured lenders and the Receiver is unaware of any opposition to the Sale Process at this time;

- (m) The Sale Process does not require the Receiver to accept an offer that is not in the best interests of the stakeholders of the Projects;
- (n) The terms of the Sale Process are fair and reasonable in the circumstances, and the Receiver's view and position on the Sale Process are detailed further within the Second Report;
- (o) The Receiver will return to this Court to seek approval of any transaction generated throughout the Sale Process and approval of definitive documentation with respect to same, or, if no qualified bids are received or if the Receiver concludes that none of the bids will result in a consummated transaction, the Receiver will seek further instructions from this Court;

APPROVAL OF THE FIRST REPORT AND THE SECOND REPORT

- (p) The Receiver's actions and activities, as described in the First Report and the Second Report, are lawful and proper, and consistent with its powers and duties under the Receivership Order;

SEALING ORDER

- (q) Confidential Appendix "1" to the Second Report contains a summary of the proposals received from interested brokers and contains confidential, sensitive and competitive information, including pricing information. If such information is disclosed, it would have a detrimental impact on the Sale Process as prospective bidders would have valuation information relevant to sale of the Real Property;
- (r) Accordingly, in the Receiver's view, it is necessary and appropriate for Confidential Appendix "1" to be sealed;

GENERALLY

- (s) The circumstances that exist make the Order sought by the Receiver appropriate;
- (t) The terms of the Receivership Order;

- (u) The reasons set out in the First Report and the Second Report;
- (v) Rules 1.04, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure* (Ontario); and
- (w) Such further and other grounds as counsel may advise and this Court may permit.

2. **THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

- (a) The Order of Justice Pattillo, dated December 10, 2021;
- (b) The First Report of the Receiver to this Court dated December 20, 2021;
- (c) The Second Report of the Receiver to this Court dated February 3, 2022; and
- (d) Such further and other material as counsel may submit and this Court may permit.

Date: February 3, 2022

AIRD & BERLIS LLP

Barristers and Solicitors
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181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

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Email: sgraff@airdberlis.com

Ian Aversa LSO#: 55449N

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Tamie Dolny LSO#: 77958U

Tel: 416.426.2306
Email: tdolny@airdberlis.com

Lawyers for the Receiver

TO: SERVICE LIST

Schedule "A"
REAL PROPERTY

1. 527 Glendale Avenue
St. Catharines, ON
PIN: 46415-0949
2. 185 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0047
3. 197 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0049
4. 209 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0051
5. 191 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0048
6. 203 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0050
7. 215 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0052
8. 4210 Lyons Creek Road
Niagara Falls, ON
PIN: 64258-0110
9. 4248 Lyons Creek Road
Niagara Falls, ON
PIN: 64258-0713
10. 2334 St. Paul Avenue
Niagara Falls, ON
PIN: 64269-0559
11. 355 Adelaide Street West
Toronto, ON
PIN: 21412-0150

12. 46 Charlotte Street
Toronto, ON
PIN: 21412-0151
13. Highland Road
Hamilton, ON
PIN: 17376-0025
14. Upper Centennial Parkway
Hamilton, ON
PIN: 17376-0111
15. 19 Beard Place
St. Catharines, ON
PIN: 46265-0022
16. 7386 Islington Avenue
Vaughan, ON
PIN: 03222-0909
17. 4951 Aurora Road
Stouffville, ON
PIN: 03691-0193

**SCHEDULE “B”
RECEIVERSHIP RESPONDENTS**

1. GO-TO DEVELOPMENTS HOLDINGS INC.
2. FURTADO HOLDINGS INC.
3. GO-TO DEVELOPMENTS ACQUISITIONS INC.
4. GO-TO GLENDALE AVENUE INC.
5. GO-TO GLENDALE AVENUE LP
6. GO-TO MAJOR MACKENZIE SOUTH BLOCK INC.
7. GO-TO MAJOR MACKENZIE SOUTH BLOCK LP
8. GO-TO MAJOR MACKENZIE SOUTH BLOCK II INC.
9. GO-TO MAJOR MACKENZIE SOUTH BLOCK II LP
10. GO-TO NIAGARA FALLS CHIPPAWA INC.
11. GO-TO NIAGARA FALLS CHIPPAWA LP
12. GO-TO NIAGARA FALLS EAGLE VALLEY INC.
13. GO-TO NIAGARA FALLS EAGLE VALLEY LP
14. GO-TO SPADINA ADELAIDE SQUARE INC.
15. GO-TO SPADINA ADELAIDE SQUARE LP
16. GO-TO STONEY CREEK ELFRIDA INC.
17. GO-TO STONEY CREEK ELFRIDA LP
18. GO-TO ST. CATHARINES BEARD INC.
19. GO-TO ST. CATHARINES BEARD LP
20. GO-TO VAUGHAN ISLINGTON AVENUE INC.
21. GO-TO VAUGHAN ISLINGTON AVENUE LP
22. AURORA ROAD LIMITED PARTNERSHIP
23. 2506039 ONTARIO LIMITED

ONTARIO SECURITIES COMMISSION

- and -

GO-TO DEVELOPMENTS HOLDINGS INC., et al.

Applicant

Respondents

CV-21-00673521-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceedings commenced at Toronto

**NOTICE OF MOTION
(returnable February 9, 2022)**

AIRD & BERLIS LLP
Barristers and Solicitors
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Toronto, ON M5J 2T9

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Email: iaversa@airdberlis.com

Tamie Dolny (LSO#: 77958U)
Tel: 647.426.2306
Email: tdolny@airdberlis.com

Lawyers for the Receiver

This is Exhibit “D” referred to in the
affidavit of Paul Baik
sworn before me, this 7th day of March, 2022

A handwritten signature in black ink, appearing to read "Michelle Spain", written over a horizontal dotted line.

A Commissioner for Taking Affidavits

**Michelle Spain, a Commissioner, etc.,
Province of Ontario, for the Government of Ontario,
Ontario Securities Commission.
Expires March 22, 2024.**

Court File No.: CV-21-00673521-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N :

ONTARIO SECURITIES COMMISSION

Applicant

- and -

GO-TO DEVELOPMENTS HOLDINGS INC., OSCAR FURTADO, FURTADO HOLDINGS INC., GO-TO DEVELOPMENTS ACQUISITIONS INC., GO-TO GLENDALE AVENUE INC., GO-TO GLENDALE AVENUE LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK II INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK II LP, GO-TO NIAGARA FALLS CHIPPAWA INC., GO-TO NIAGARA FALLS CHIPPAWA LP, GO-TO NIAGARA FALLS EAGLE VALLEY INC., GO-TO NIAGARA FALLS EAGLE VALLEY LP, GO-TO SPADINA ADELAIDE SQUARE INC., GO-TO SPADINA ADELAIDE SQUARE LP, GO-TO STONEY CREEK ELFRIDA INC., GO-TO STONEY CREEK ELFRIDA LP, GO-TO ST. CATHARINES BEARD INC., GO-TO ST. CATHARINES BEARD LP, GO-TO VAUGHAN ISLINGTON AVENUE INC., GO-TO VAUGHAN ISLINGTON AVENUE LP, AURORA ROAD LIMITED PARTNERSHIP and 2506039 ONTARIO LIMITED

Respondents

**NOTICE OF MOTION
(Returnable February 9, 2022)**

The Respondents will make a motion to a judge of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on February 9, 2022 at 12:00pm, or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The Motion is to be heard:

- ☐ In writing under subrule 37.12.1(1) because it is;
- ☐ In writing as an opposed motion under subrule 37.12.1(4);
- ☐ In person;

[] By telephone conference;

[X] By video conference.

At the following Zoom link: <https://airdberlis.zoom.us/j/86268104342>.

THE MOTION IS FOR:

- (a) An Order directing that the Receiver accept the Glendale Offer and the Aurora Offer (as defined below);
- (b) An Order sealing the Confidential Appendix (as defined below) (the “**Sealing Order**”); and
- (c) Such further and other relief that this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. Pursuant to the receivership order of the Honourable Mr. Justice Pattillo of the Ontario Superior Court of Justice (Commercial List) issued December 10, 2021 (the “**Receivership Order**”), KSV Restructuring Inc. was appointed as receiver and manager (in such capacity, the “**Receiver**”) of: (i) the real properties and entities (the “**Real Property**”) listed at Schedule “A” to Receivership Order and (ii) all the other assets, undertakings and properties of each of the parties listed on Schedule “B” to the Receivership Order (the “**Receivership Entities**”);
2. The Receiver is seeking, among other things, approval of the proposed sale process (the “**Sale Process**”), to commence on February 28, 2022, as described in the Second Report of the Receiver dated February 3, 2022 (the “**Second Report**”);

3. The principal assets of the Receivership Respondents are the Real Property, which are nine real properties throughout Ontario that are in early stages of development (the “**Projects**”);

4. There have been recent developments with respect to the Go-To Glendale Avenue LP Project (the “**Glendale Project**”) and the Go-To Aurora LP Project (the “**Aurora Project**”). In particular, the owners of the Projects (as detailed below) received offers from third parties for the purchase and sale of each of the following two properties:

i. 527 Glendale Avenue, St. Catharines, ON (the “**Glendale Property**”), and

ii. 4951 Aurora Road, Stouffville, ON (the “**Aurora Property**”);

5. The Glendale Property is owned by Go-To Glendale Avenue Inc. and Go-To Glendale Avenue Inc. (GP), which are Receivership Entities;

6. The Aurora Property is owned by 2506039 Ontario Limited (“**Go-To Aurora**”), which is a Receivership Entity;

7. Every single one of the investors in the Glendale Project supports the Glendale Offer (as defined below), and every single one of the investors in the Aurora Project supports the Aurora Offer (as defined below);

8. It is in the best interest of the investors for the Receiver to accept these offers, and proceed with a sale of the Glendale Property and the Aurora Property outside of the proposed Sale Process;

GLENDALE PROPERTY

9. On February 4, 2022, a prospective purchaser prepared an unconditional offer for the purchase of the Glendale Property (the “**Glendale Offer**”);

10. The total gross investment in the Glendale Project is \$3,100,000. Of this amount, \$785,437 has been paid to investors to date, making the total net investment in the Glendale Project \$2,314,563. The total estimated liabilities of the Glendale Property amount to \$3,839,884;

11. The purchase price in the Glendale Offer is significantly higher than the appraised value of the Glendale Property;

12. There are 13 investors in the Glendale Project. Every single investor in the Glendale Project has confirmed that they recommend that the Receiver accept the Glendale Offer;

13. The Glendale Offer provides for the repayment of all of the secured debt on the Glendale Property, and will likely result in the full repayment to investors in the Glendale Project;

14. A. Farber & Partners Inc. (“**Farber**”) has been retained by the investors in the Glendale Project to represent their interest in the Glendale Project. Farber has agreed to act as an advisor and liaison for investors with respect to the Glendale Offer;

15. The Glendale Offer is unconditional, above-market, and has unanimous investor support. The Glendale Offer represents the best likelihood for investors to obtain a full repayment of their investments in the Glendale Project;

16. Declining the Glendale Offer and proceeding with a sale of the Glendale Property in the Receiver’s proposed Sale Process will have the effect of eroding investors’ recoveries due to the

significantly high cost of administering the proposed Sale Process, and creates unnecessary risk for the investors in the Glendale Project;

AURORA PROPERTY

17. On February 6, 2022, a prospective purchaser prepared an offer for the purchase of the Aurora Property (the “**Aurora Offer**”);

18. Go-To Aurora intended on developing the Aurora Property in coordination with the owner(s) of the four adjacent parcels (the “**Other Parcels**”). Gerry Brouwer represents the owners of the Other Parcels;

19. On January 25, 2022, Hillmount Capital Mortgage Holdings Inc. and Hillmount Capital assigned their interest in a mortgage over the Aurora Property and the Other Parcels to Gerry Brouwer’s numbered company;

20. The Receiver has indicated its intention to market the Aurora Property and the Other Parcels jointly as one assembly in the proposed Sale Process and to engage in discussions with Gerry Brouwer regarding the particular terms of the process. To date, the Receiver and Gerry Brouwer have not entered into an agreement or agreed on such terms;

21. The total gross investment in the Aurora Project is \$1,500,000. Of this amount, \$200,371 has been paid to investors to date, making the net investment in the Aurora Property 1,299,630. The total estimated liabilities of the Aurora Property amount to \$3,140,000;

22. Go-To Aurora is party to a joint-venture agreement with a company controlled by Gerry Brouwer, 341868 Ontario Limited (“**JV Agreement**”) which was entered into for the purpose of

developing, constructing and operating the Aurora Property. Due to the unique nature of the Aurora Property and the terms of the JV Agreement, the best outcome for investors would involve a joint sale of the Aurora Property and the Other Parcels. This would maximize the value of the Aurora Property, and would require that Go-To Aurora and Gerry Brouwer agree on terms with respect to the allocation of the proceeds of any sale;

23. Gerry Brouwer has agreed that absent an agreement regarding the allocation of the proceeds of sale of the Aurora Property, the value of the Aurora Property would be significantly depressed;

24. The purchase price in the Aurora Offer is significantly higher than the appraised value of the Aurora Property;

25. There are six (6) investors in the Aurora Project. Every single investor in the Aurora Project has confirmed that they recommend that the Receiver accept the Aurora Offer;

26. The Aurora Offer contains a 21-day due diligence period. This due diligence period is inconsequential given that it is set to lapse well in advance of the deadline to submit offers in the Receiver's proposed Sale Process (*ie*, April 7, 2022). The investors in the Aurora Project were each informed of the due-diligence period in advance of providing their recommendation regarding the Aurora Offer;

27. The prospective purchaser is unlikely to participate in the Receiver's proposed Sale Process;

28. Farber has been retained by the investors in the Aurora Project to represent their interest in the Aurora Project. Farber has agreed to act as an advisor and liaison for investors with respect to the Aurora Offer;

29. The Aurora Offer should be accepted and that the Aurora Property should be excluded from the proposed Sale Process, given that:

- a) the Aurora Offer is significantly above-market;
- b) All six (6) investors in the Aurora Project support the Aurora Offer and recommend that it be accepted by the Receiver;
- c) the 21-day due diligence period would lapse in advance of the Bid Deadline;
- d) there is no certainty that Gerry Brower, as representative of the owners of the Other Lands and as the lender on the Aurora Project, would agree to terms with the Receiver regarding an offer within the Receiver's proposed Sale Process, and a sale of the Aurora Property on a stand-alone basis would not provide a favourable outcome for investors in the Aurora Project; and
- e) declining the Aurora Offer and proceeding with a sale of the Aurora Property in the Receiver's proposed Sale Process will have the effect of eroding investors' recoveries due to the significantly high cost of administering the proposed Sale Process;

30. It is unlikely that a better offer on the Aurora Property can be obtained in the proposed Sale Process. A sale of the Aurora Property in the Receiver's proposed Sale Process will erode

investors' recoveries due to the significantly high cost of administering the proposed Sale Process. This is particularly true with respect to the Aurora Project, where (as set out in the Second Report) the Receiver intends on engaging in discussions with Gerry Brouwer to negotiate the terms of a potential joint marketing of the Aurora Property and the Other Parcels, a process which invites complexities and costs, all which would be borne by investors;

SEALING ORDER

31. The Respondents seek a sealing order ("**Sealing Order**") with respect to the Confidential Exhibits to the Affidavit of Oscar Furtado sworn February 9, 2022 in order to seal:

- (a) the appraisal reports estimating the market value of the Glendale Property and the Aurora Property,
- (b) correspondence from investors regarding the Glendale Offer and the Aurora Offer, and
- (c) the Glendale Offer and the Aurora Offer;

32. The Sealing Order sought is necessary to prevent risk to the commercial interests of the investors in the Glendale Project and the Aurora Project;

33. Public exposure of the items in the Confidential Exhibits may cause real and substantial prejudice to the parties' ability to maximize the value of the Glendale Property and the Aurora Property in the proposed Sale Process;

34. As a matter of proportionality, the benefits of the Sealing Order outweigh its negative effects;

35. The *Rules of Civil Procedure* (Ontario), including Rules 1.04, 1.05, 37; and

36. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

- (a) the Affidavit of Oscar Furtado sworn February 8, 2022 and the Confidential Exhibits thereto;
- (b) the Second Report of the Receiver dated February 3, 2022; and
- (c) Such further and other grounds as counsel may advise and this Honourable Court may permit.

February 8, 2022

MILLER THOMSON LLP

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P.O. Box 1011
Toronto ON M5H 3S1

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Tel: 416.595.2660

Email: gazeff@millerthomson.com

Monica Faheim LSO#: 82213R

Tel: 416.597.6087

Email: mfaheim@millerthomson.com

AND TO:

SERVICE LIST ATTACHED

SERVICE LIST
(as of February 8, 2022)

TO: **MILLER THOMSON LLP**
 40 King Street West, Suite 5800
 Toronto ON M5H 3S1

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 Tel: 416.595.2660
 Email: gazeff@millerthomson.com

Monica Faheim LSO#: 82213R
 Tel: 416.597.6087
 Email: mfaheim@millerthomson.com

Lawyers for the Appellants

AND TO: **ONTARIO SECURITIES COMMISSION**
 20 Queen Street West, 22nd Floor
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Lawyers for the Ontario Securities Commission

AND TO: **AIRD & BERLIS LLP**
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Steve Graff LSO #: 31871V
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Tamie Dolny LSO#: 77958U
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Lawyers for the Receiver, KSV Restructuring Inc.

AND TO: **THORNTON GROUT FINNIGAN LLP**
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ONTARIO SECURITIES COMMISSION
Applicant

and

GO-TO DEVELOPMENTS HOLDINGS
INC., et al.
Respondents

Court File No.: CV-21-00673521-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE -
COMMERCIAL LIST**

Proceeding commenced at TORONTO

**NOTICE OF MOTION
(Returnable February 9, 2022)**

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Lawyers for the Respondents

This is Exhibit “E” referred to in the
affidavit of Paul Baik
sworn before me, this 7th day of March, 2022

A handwritten signature in black ink, appearing to read "Michelle Spain", written over a horizontal dotted line.

A Commissioner for Taking Affidavits

**Michelle Spain, a Commissioner, etc.,
Province of Ontario, for the Government of Ontario,
Ontario Securities Commission.
Expires March 22, 2024.**

Court File No. CV-21-00673521-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MADAM)	WEDNESDAY, THE 9TH
)	
)	
JUSTICE CONWAY)	DAY OF FEBRUARY, 2022

B E T W E E N :

ONTARIO SECURITIES COMMISSION

Applicant

- and -

GO-TO DEVELOPMENTS HOLDINGS INC., OSCAR FURTADO, FURTADO HOLDINGS INC., GO-TO DEVELOPMENTS ACQUISITIONS INC., GO-TO GLENDALE AVENUE INC., GO-TO GLENDALE AVENUE LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK II INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK II LP, GO-TO NIAGARA FALLS CHIPPAWA INC., GO-TO NIAGARA FALLS CHIPPAWA LP, GO-TO NIAGARA FALLS EAGLE VALLEY INC., GO-TO NIAGARA FALLS EAGLE VALLEY LP, GO-TO SPADINA ADELAIDE SQUARE INC., GO-TO SPADINA ADELAIDE SQUARE LP, GO-TO STONEY CREEK ELFRIDA INC., GO-TO STONEY CREEK ELFRIDA LP, GO-TO ST. CATHARINES BEARD INC., GO-TO ST. CATHARINES BEARD LP, GO-TO VAUGHAN ISLINGTON AVENUE INC., GO-TO VAUGHAN ISLINGTON AVENUE LP, AURORA ROAD LIMITED PARTNERSHIP and 2506039 ONTARIO LIMITED

Respondents

**APPLICATION UNDER
Sections 126 and 129 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended**

**ORDER
(Approval of Sale Process, Reports and Ancillary Matters)**

THIS MOTION, made by KSV Restructuring Inc. (“KSV”), in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”), without security, of the real property listed on Schedule “A” hereto (the “**Real Property**”) and all the other assets, undertakings

and properties (together with the Real Property, the “**Property**”) of each of the parties listed on Schedule “B” hereto (the “**Receivership Respondents**”) was heard this day via video-conference.

ON READING the Motion Record of the Receiver, the Factum of the Receiver, the First Report of the Receiver to the Court dated December 10, 2022 (the “**First Report**”) and the Second Report of the Receiver to the Court dated February 3, 2022 (the “**Second Report**”), and on hearing the submissions of counsel for the Receiver, and such other counsel as were present, no one appearing for any other person on the Service List, as appears from the affidavit of service of T. Dolny sworn February 3, 2022:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record of the Receiver is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

SALE PROCESS

2. **THIS COURT ORDERS** that the Sale Process as described and defined in the Second Report is hereby approved.

3. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to perform its obligations under the Sale Process and to take any and all steps that are reasonably necessary or desirable to carry out the Sale Process.

4. **THIS COURT ORDERS** that Colliers Macaulay Nicolls Inc. and CBRE Limited (collectively, the “**Realtors**”) are approved and authorized to act as real estate brokers to market the relevant Property in accordance with the Sale Process.

5. **THIS COURT ORDERS** that the Receiver and the Realtors and their respective representatives and advisors shall have no corporate or personal liability in connection with conducting the Sale Process, save and except for any gross negligence or wilful misconduct on their part, as determined by this Court.

FIRST REPORT AND SECOND REPORT

6. **THIS COURT ORDERS** that the First Report and the actions and activities of the Receiver and its counsel described therein be and hereby are approved.

7. **THIS COURT ORDERS** that the Second Report and the actions and activities of the Receiver and its counsel described therein be and hereby are approved.

SEALING ORDER

8. **THIS COURT ORDERS** that Confidential Appendix “1” to the Second Report is hereby sealed and shall not form part of the public record.

GENERAL

9. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

10. **THIS COURT HEREBY REQUESTS** the aid and recognition of any other Canadian and foreign court, tribunal, regulatory or administrative body (“**Judicial Bodies**”) to give effect to this Order and to assist the Receiver and its respective agents in carrying out the terms of this Order. All Judicial Bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its respective agents in carrying out the terms of this Order.

_____  _____

SCHEDULE "A"
REAL PROPERTY

1. 527 Glendale Avenue
St. Catharines, ON
PIN: 46415-0949
2. 185 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0047
3. 197 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0049
4. 209 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0051
5. 191 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0048
6. 203 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0050
7. 215 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0052
8. 4210 Lyons Creek Road
Niagara Falls, ON
PIN: 64258-0110
9. 4248 Lyons Creek Road
Niagara Falls, ON
PIN: 64258-0713

10. 2334 St. Paul Avenue
Niagara Falls, ON
PIN: 64269-0559
11. 355 Adelaide Street West
Toronto, ON
PIN: 21412-0150
12. 46 Charlotte Street
Toronto, ON
PIN: 21412-0151
13. Highland Road
Hamilton, ON
PIN: 17376-0025
14. Upper Centennial Parkway
Hamilton, ON
PIN: 17376-0111
15. 19 Beard Place
St. Catharines, ON
PIN: 46265-0022
16. 7386 Islington Avenue
Vaughan, ON
PIN: 03222-0909
17. 4951 Aurora Road
Stouffville, ON
PIN: 03691-0193

**SCHEDULE “B”
RECEIVERSHIP RESPONDENTS**

1. GO-TO DEVELOPMENTS HOLDINGS INC.
2. FURTADO HOLDINGS INC.
3. GO-TO DEVELOPMENTS ACQUISITIONS INC.
4. GO-TO GLENDALE AVENUE INC.
5. GO-TO GLENDALE AVENUE LP
6. GO-TO MAJOR MACKENZIE SOUTH BLOCK INC.
7. GO-TO MAJOR MACKENZIE SOUTH BLOCK LP
8. GO-TO MAJOR MACKENZIE SOUTH BLOCK II INC.
9. GO-TO MAJOR MACKENZIE SOUTH BLOCK II LP
10. GO-TO NIAGARA FALLS CHIPPAWA INC.
11. GO-TO NIAGARA FALLS CHIPPAWA LP
12. GO-TO NIAGARA FALLS EAGLE VALLEY INC.
13. GO-TO NIAGARA FALLS EAGLE VALLEY LP
14. GO-TO SPADINA ADELAIDE SQUARE INC.
15. GO-TO SPADINA ADELAIDE SQUARE LP
16. GO-TO STONEY CREEK ELFRIDA INC.
17. GO-TO STONEY CREEK ELFRIDA LP
18. GO-TO ST. CATHARINES BEARD INC.
19. GO-TO ST. CATHARINES BEARD LP
20. GO-TO VAUGHAN ISLINGTON AVENUE INC.
21. GO-TO VAUGHAN ISLINGTON AVENUE LP
22. AURORA ROAD LIMITED PARTNERSHIP
23. 2506039 ONTARIO LIMITED

Applicant

Respondents

CV-21-00673521-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceedings commenced at Toronto

ORDER

(Approval of Sale Process, Reports and Ancillary Matters)

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COUNSEL SLIP

COURT FILE

NO.: CV-21-00673521-00CL

DATE: 09-FEB-2022

NO. ON LIST 3

TITLE OF
PROCEEDINGONTARIO SECURITIES COMMISSION v. GO-TO DEVELOPMENTS
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☐ APPLICANT(S)

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- Etc.

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JUDICIAL NOTES:Conway J. Endorsement

The Receiver's motion proceeded before me on an unopposed/consent basis. The Receiver seeks approval of a sale process for the subject properties. Yesterday, offers were presented by Mr. Furtado's counsel for the Glendale and Aurora properties, which he seeks to remove from the sale process. Counsel have negotiated a resolution that will permit the sale process to go forward while having the Receiver evaluate the two offers. They have agreed on the following terms, which I endorse:

The Receiver, the Receivership Respondents and Mr. Oscar Furtado ("**Furtado**", and with the Receivership Respondents, the "**Respondents**") agree that the Order sought by the Receiver at the hearing scheduled on February 9, 2022 shall be issued, on consent, pursuant to the following terms:

1. The Receiver agrees to use its best efforts to evaluate the agreement of purchase and sale for :

A. 527 Glendale Avenue, St. Catherines, ON, at PIN 46415-0949 (the "**Glendale Property**"), in the form appended as Confidential Exhibit "A" to the Respondents' motion record dated February 8, 2022 (the "**Glendale Offer**"), such that:

if the Receiver determines, after performing due diligence, that:

- I. the Glendale Offer is in the best interests of all relevant stakeholders; and
- II. the Receiver is advised in writing by all investors in the Glendale Property that the Receiver ought to accept the offer,

the Receiver will take steps to accept the Glendale Offer on the same economic terms as presented within Confidential Exhibit "A", as amended in consultation with the relevant parties, such that the Glendale Property will not form part of the Sale Process on a going forward basis.

The Receiver will communicate its intention to accept or reject the Glendale Offer by 5:00 PM EST on Friday, February 18, 2022 (the "**Acceptance Deadline**").

B. 4951 Aurora Road, Stouffville, ON at PIN 03491-0193 (the "**Aurora Property**") in the form appended as Confidential Exhibit "D" to the Respondents' motion record dated February 8, 2022 (the "**Aurora Offer**"), such that:

if the Receiver determines, after performing due diligence, that:

- I. the Aurora Offer is in the best interests of all relevant stakeholders;
- II. the Receiver is advised in writing by the owners of the other parcels subject to the Aurora Offer that the Aurora Offer is acceptable;
- III. the Receiver is advised in writing by all investors and stakeholders, as the Receiver deems appropriate, in the Aurora Property that the Receiver ought to accept the offer; and
- IV. the Receiver is satisfied that the proceeds from the Aurora Offer as allocated to the Aurora Property will be sufficient to pay, in full, all costs, expenses and stakeholder interests in respect of the Aurora Property,

the Receiver will take steps to accept the Aurora Offer on the same economic terms as presented within Confidential Exhibit "D", as amended in consultation with the relevant parties, such that the Aurora Property will not form part of the Sale Process on a going forward basis.

The Receiver will communicate its intention to accept or reject the Aurora Offer by the Acceptance Deadline.

2. Approval of the Sale Process, as defined in the Order, remains without prejudice to the Respondents' right to return to this Court in the event that the Receiver communicates its intention to reject the

Glendale Offer and/or the Aurora Offer, and seek to have the Glendale Property and/or the Aurora Property excluded from the Sale Process.

3. If the Receiver accepts the Glendale Offer and/or the Aurora Offer by the Acceptance Deadline, an amount of \$50,000 in each of the Glendale Offer and the Aurora Offer shall be included as costs for CBRE Limited (“**CBRE**”) in consideration for its professional fees and expenses to market the Glendale Property and the Aurora Property in the Sale Process.
4. The Respondents are restrained from engaging in any further sales or marketing efforts of the Real Property, and shall direct any potential purchasers to the Receiver and/or the relevant Realtor.

The remaining relief on the motion is acceptable to me, including approval of the first and second reports.

I am granting a sealing order for Confidential Appendix “1” to the Second Report in light of the ongoing sale process and the commercially sensitive information contained therein. I am satisfied that it meets the *Sierra Club/Sherman Estate* test for sealing. In addition, I am sealing the Confidential Exhibit Brief of the Responding Motion Record, for the same reasons (and it contains private information about the investors).

Order to go as signed by me and attached to this endorsement. This order is effective from today's date and is enforceable without the need for entry and filing.



Court of Appeal File No. C70114

ONTARIO SECURITIES COMMISSION
Applicant (Respondent in Appeal – Moving Party)

- AND -

GO-TO DEVELOPMENTS HOLDINGS INC., *et al.*
Respondents (Appellants)

COURT OF APPEAL FOR ONTARIO

Proceeding Commenced at Toronto

AFFIDAVIT OF PAUL BAIK

(Sworn March 7, 2022)

Ontario Securities Commission

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**IN THE MATTER OF THE *SECURITIES ACT*
R.S.O. 1990, c. S.5, AS AMENDED**

- AND -

**IN THE MATTER OF GO-TO DEVELOPMENTS HOLDINGS INC.,
OSCAR FURTADO, and FURTADO HOLDINGS INC.**

**FREEZE DIRECTION
(Sections 126(1)(b) and 126(1)(c))**

TO: Oscar Furtado (DOB: July 15, 1962)
2354 Salcome Drive
Oakville, Ontario
L6H 7N3

RE: Proceeds of sale of units of Go-To limited partnerships

TAKE NOTICE THAT pursuant to paragraph 126(1)(b) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”), you are directed to refrain from withdrawing any funds, securities or property: that constitute or are derived from the proceeds of, or are otherwise related to the sale of units in any limited partnership related to Go-To Developments Holdings Inc. (“GTDH”), from another person or company who has them on deposit, under control or for safekeeping; and, without limiting the generality of the foregoing, in RBC Direct Investing account no. 685-92809-2-4 (“**RBC Direct Account**”); and to hold these funds, securities or property until the Ontario Securities Commission in writing revokes or varies this Direction or consents to release a particular fund, securities or property from this Direction or until the Ontario Superior Court of Justice orders otherwise.

AND TAKE FURTHER NOTICE that pursuant to paragraph 126(1)(c) of the Act, you are directed to maintain funds, securities or property: that constitute or are derived from the proceeds of, or are otherwise related to the sale of units in any limited partnership related to GTDH; and, without limiting the generality of the foregoing, in the RBC Direct Account; and you are directed to refrain from disposing of, transferring, dissipating or otherwise dealing with or diminishing the value

of those funds, securities or property until the Ontario Securities Commission in writing revokes or varies this Direction or consents to release a particular fund, security or property from this Direction or until the Ontario Superior Court of Justice orders otherwise, except that you may dispose of securities or derivatives already held in the RBC Direct Account provided that any disposition occurs through the facilities of a recognized exchange and all proceeds of such sales are maintained in the RBC Direct Account.

DATED at Toronto, Ontario this 6th day of December, 2021.

"Timothy Moseley"

Court File No. CV-21-00673521-00CL

**ONTARIO
 SUPERIOR COURT OF JUSTICE
 (COMMERCIAL LIST)**

THE HONOURABLE

)

FRIDAY, THE 10th

JUSTICE L. PATTILLO

)

DAY OF DECEMBER, 2021

)



ONTARIO SECURITIES COMMISSION

Applicant

- and -

GO-TO DEVELOPMENTS HOLDINGS INC., OSCAR FURTADO, FURTADO HOLDINGS INC., GO-TO DEVELOPMENTS ACQUISITIONS INC., GO-TO GLENDALE AVENUE INC., GO-TO GLENDALE AVENUE LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK II INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK II LP, GO-TO NIAGARA FALLS CHIPPAWA INC., GO-TO NIAGARA FALLS CHIPPAWA LP, GO-TO NIAGARA FALLS EAGLE VALLEY INC., GO-TO NIAGARA FALLS EAGLE VALLEY LP, GO-TO SPADINA ADELAIDE SQUARE INC., GO-TO SPADINA ADELAIDE SQUARE LP, GO-TO STONEY CREEK ELFRIDA INC., GO-TO STONEY CREEK ELFRIDA LP, GO-TO ST. CATHARINES BEARD INC., GO-TO ST. CATHARINES BEARD LP, GO-TO VAUGHAN ISLINGTON AVENUE INC., GO-TO VAUGHAN ISLINGTON AVENUE LP, AURORA ROAD LIMITED PARTNERSHIP and 2506039 ONTARIO LIMITED

Respondents

APPLICATION UNDER SECTIONS 126 AND 129 OF THE *SECURITIES ACT*, R.S.O. 1990, c. S.5, AS AMENDED

**ORDER
 (appointing Receiver)**

THIS APPLICATION, made by the Ontario Securities Commission ("**OSC**") for an Order pursuant to sections 126 and 129 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the

"Act"), appointing KSV Restructuring Inc. ("**KSV**") as receiver and manager (in such capacity, the "**Receiver**") without security, of the real property listed on **Schedule "A"** hereto (the "**Real Property**") and all the other assets, undertakings and properties of each of the parties listed on **Schedule "B"** hereto (the "**Receivership Respondents**"), was heard this day by judicial videoconference via Zoom due to the COVID-19 emergency.

ON READING the affidavit of Stephanie Collins sworn December 6, 2021 and the exhibits thereto (the "**Collins Affidavit**"), and on hearing the submissions of counsel for the OSC and counsel for the Respondents, and on reading the consent of KSV to act as the Receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the notice of application and the application record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

FREEZE DIRECTIONS

2. **THIS COURT ORDERS** that the Freeze Directions issued by the OSC to Oscar Furtado and RBC Direct Investing on December 6, 2021, copies of which are attached at **Schedule "C"** hereto, shall continue until further order of this Court or until the OSC revokes the Freeze Directions or consents to release funds, securities or property from the Freeze Directions.

APPOINTMENT

3. **THIS COURT ORDERS** that pursuant to section 129 of the Act, KSV is hereby appointed Receiver, without security, of the Real Property and all the other assets, undertakings and properties of each of the Receivership Respondents, including all of the assets held in trust or required to be held in trust by or for any of the Receivership Respondents, or by their lawyers, agents and/or any other Person (as defined below), and all proceeds thereof (together with the Real Property, the "**Property**").

RECEIVER'S POWERS

4. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate and carry on the business of any of the Receivership Respondents, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business or cease to perform any contracts of any of the Receivership Respondents;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of any of the Receivership Respondents or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to any of the Receivership Respondents and to exercise all remedies of any

of the Receivership Respondents in collecting such monies, including, without limitation, to enforce any security held by any of the Receivership Respondents;

- (g) to settle, extend or compromise any indebtedness owing to any of the Receivership Respondents;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of any of the Receivership Respondents, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to any of the Receivership Respondents, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) with the approval of this Court, to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, and, in each such case, notice under subsection 63(4) of the Ontario *Personal Property Security Act* or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;

- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental or regulatory authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of any of the Receivership Respondents;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of any of the Receivership Respondents, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by any of the Receivership Respondents;
- (q) to exercise any shareholder, partnership, joint venture or other rights which any of the Receivership Respondents may have;
- (r) to examine under oath any person the Receiver reasonably considers to have knowledge of the affairs of the Receivership Respondents, including, without limitation, any present or former director, officer, employee or any other person registered or previously registered with the OSC or subject to or formerly subject to the jurisdiction of the OSC or any other regulatory body respecting or having jurisdiction over any of the Property and the affairs of any of the Receivership Respondents; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Receivership Respondents, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

5. **THIS COURT ORDERS** that (i) each of the Receivership Respondents, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

6. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not required, to take possession and control of any monies, funds, deposit instruments, securities, or other Property held by or in the name of any of the Receivership Respondents, or by any third party for the benefit of any of the Receivership Respondents.

7. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of any of the Receivership Respondents, or the Property, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 7 or in paragraph 8 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

8. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

9. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days' notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

10. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST ANY OF THE RECEIVERSHIP RESPONDENTS OR THE PROPERTY

11. **THIS COURT ORDERS** that no Proceeding against or in respect of any of the Receivership Respondents or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of any of the Receivership Respondents or the Property are hereby stayed and suspended pending further Order of this Court, provided that nothing herein shall prevent the commencement or continuation of any investigation or proceedings in respect of the Receivership Respondents, or any of them, by or before the OSC and its enforcement staff.

NO EXERCISE OF RIGHTS OR REMEDIES

12. **THIS COURT ORDERS** that all rights and remedies against any of the Receivership Respondents, the Receiver or affecting the Property are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), and further provided that nothing in this paragraph shall (i) empower the Receiver or the Receivership Respondents to carry on any business which the Receivership Respondents are not lawfully entitled to carry on, (ii) exempt the Receiver or the Receivership Respondents from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

13. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any of the Receivership Respondents, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

14. **THIS COURT ORDERS** that all Persons having oral or written agreements with any of the Receivership Respondents or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data

services, centralized banking services, payroll services, insurance, transportation services, utility or other services to any of the Receivership Respondents are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Receivership Respondents' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Receivership Respondents or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

15. **THIS COURT ORDERS** that all funds, monies, cheques, instruments and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including, without limitation, the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

16. **THIS COURT ORDERS** that all employees of the Receivership Respondents, if any, shall remain the employees of the Receivership Respondents until such time as the Receiver, on the Receivership Respondents' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA AND ANTI-SPAM LEGISLATION

17. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Receivership Respondents, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

18. **THIS COURT ORDERS** that any and all interested stakeholders in this proceeding and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in this proceeding, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to such other interested stakeholders in this proceeding and their counsel and advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

LIMITATION ON ENVIRONMENTAL LIABILITIES

19. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste

or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act* or the Ontario *Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

20. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

21. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

23. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

24. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$250,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

25. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

26. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "D"** hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

27. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SEALING

28. **THIS COURT ORDERS** that the OSC is authorized to redact any Personal Information (as defined below) contained in the exhibits to the Collins Affidavit (as so redacted, the “**Redacted Exhibits**”) and file with the Court the Collins Affidavit with the Redacted Exhibits. “Personal Information” means information about an identifiable individual, including, but not limited to, the following: (i) social insurance number; (ii) driver’s license number; (iii) passport number; (iv) license plate number; (v) health plan number; (vi) date of birth; (vii) address (not including city or province); (viii) telephone number; and (ix) bank or trading account number (including a joint account). For greater certainty, “Personal Information” does not include an individual’s name or the title, contact information, or designation of an individual in a business, professional, or official capacity.

29. **THIS COURT ORDERS** that the OSC shall file with the Court the Collins Affidavit without exhibits pending filing of the Redacted Exhibits with the Court. The OSC shall file the Redacted Exhibits with the Court as soon as reasonably practicable.

30. **THIS COURT ORDERS** that the OSC is authorized to deliver the Collins Affidavit containing the unredacted exhibits to each of the following parties and its respective lawyers: the Receiver and the Respondents (each such party, a “**Recipient**”). Each Recipient shall keep the unredacted exhibits to the Collins Affidavit confidential and shall not disclose the unredacted exhibits to the Collins Affidavit to any other party without further order of the Court.

31. **THIS COURT ORDERS** that the unredacted exhibits to the Collins Affidavit shall be sealed, kept confidential and shall not form part of the public record pending further Order of the Court.

SERVICE AND NOTICE

32. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil*

Procedure (the "**Rules**") this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://www.ksvadvisory.com/experience/case/go-to>.

33. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding a notice with a link to the Case Website by email, ordinary mail, courier, personal delivery or facsimile transmission to the Receivership Respondents' creditors or other interested parties at their respective addresses as last shown on the records of the Receivership Respondents and that any such service or distribution by email, courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

34. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

35. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of any of the Receivership Respondents.

36. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

37. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located,

for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

38. **THIS COURT ORDERS** that the Receiver may engage as its legal counsel Aird & Berlis LLP, notwithstanding that Aird & Berlis LLP has had an advisory role with respect to the OSC in connection with this proceeding.

39. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

40. **THIS COURT ORDERS** that this Order is effective from the date on which it is made, and is enforceable without any need for entry and filing.



SCHEDULE "A"
REAL PROPERTY

1. 527 Glendale Avenue
St. Catharines, ON
PIN: 46415-0949
2. 185 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0047
3. 197 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0049
4. 209 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0051
5. 191 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0048
6. 203 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0050
7. 215 Major MacKenzie Drive East
Richmond Hill, ON
PIN: 03139-0052
8. 4210 Lyons Creek Road
Niagara Falls, ON
PIN: 64258-0110
9. 4248 Lyons Creek Road
Niagara Falls, ON
PIN: 64258-0713
10. 2334 St. Paul Avenue
Niagara Falls, ON
PIN: 64269-0559
11. 355 Adelaide Street West
Toronto, ON
PIN: 21412-0150

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12. 46 Charlotte Street
Toronto, ON
PIN: 21412-0151
13. Highland Road
Hamilton, ON
PIN: 17376-0025
14. Upper Centennial Parkway
Hamilton, ON
PIN: 17376-0111
15. 19 Beard Place
St. Catharines, ON
PIN: 46265-0022
16. 7386 Islington Avenue
Vaughan, ON
PIN: 03222-0909
17. 4951 Aurora Road
Stouffville, ON
PIN: 03691-0193

SCHEDULE "B"
RECEIVERSHIP RESPONDENTS

1. GO-TO DEVELOPMENTS HOLDINGS INC.
2. FURTADO HOLDINGS INC.
3. GO-TO DEVELOPMENTS ACQUISITIONS INC.
4. GO-TO GLENDALE AVENUE INC.
5. GO-TO GLENDALE AVENUE LP
6. GO-TO MAJOR MACKENZIE SOUTH BLOCK INC.
7. GO-TO MAJOR MACKENZIE SOUTH BLOCK LP
8. GO-TO MAJOR MACKENZIE SOUTH BLOCK II INC.
9. GO-TO MAJOR MACKENZIE SOUTH BLOCK II LP
10. GO-TO NIAGARA FALLS CHIPPAWA INC.
11. GO-TO NIAGARA FALLS CHIPPAWA LP
12. GO-TO NIAGARA FALLS EAGLE VALLEY INC.
13. GO-TO NIAGARA FALLS EAGLE VALLEY LP
14. GO-TO SPADINA ADELAIDE SQUARE INC.
15. GO-TO SPADINA ADELAIDE SQUARE LP
16. GO-TO STONEY CREEK ELFRIDA INC.
17. GO-TO STONEY CREEK ELFRIDA LP
18. GO-TO ST. CATHARINES BEARD INC.
19. GO-TO ST. CATHARINES BEARD LP
20. GO-TO VAUGHAN ISLINGTON AVENUE INC.
21. GO-TO VAUGHAN ISLINGTON AVENUE LP
22. AURORA ROAD LIMITED PARTNERSHIP
23. 2506039 ONTARIO LIMITED

SCHEDULE "C"
FREEZE DIRECTIONS

See attached.

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Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

22nd Floor
20 Queen Street West
Toronto ON M5H 3B8

22^e étage
20, rue queen ouest
Toronto ON M5H 3B8

**IN THE MATTER OF THE *SECURITIES ACT*
 R.S.O. 1990, c. S.5, AS AMENDED**

- AND -

**IN THE MATTER OF GO-TO DEVELOPMENTS HOLDINGS INC.,
 OSCAR FURTADO, and FURTADO HOLDINGS INC.**

**FREEZE DIRECTION
 (Sections 126(1)(b) and 126(1)(c))**

TO: Oscar Furtado (DOB: July 15, 1962)
 2354 Sakome Drive
 Oakville, Ontario
 L6H 7N3

RE: Proceeds of sale of units of Go-To limited partnerships

TAKE NOTICE THAT pursuant to paragraph 126(1)(b) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), you are directed to refrain from withdrawing any funds, securities or property: that constitute or are derived from the proceeds of, or are otherwise related to the sale of units in any limited partnership related to Go-To Developments Holdings Inc. ("GTDH"), from another person or company who has them on deposit, under control or for safekeeping; and, without limiting the generality of the foregoing, in RBC Direct Investing account no. 685-92809-2-4 ("RBC Direct Account"); and to hold these funds, securities or property until the Ontario Securities Commission in writing revokes or varies this Direction or consents to release a particular fund, securities or property from this Direction or until the Ontario Superior Court of Justice orders otherwise.

AND TAKE FURTHER NOTICE that pursuant to paragraph 126(1)(c) of the Act, you are directed to maintain funds, securities or property: that constitute or are derived from the proceeds of, or are otherwise related to the sale of units in any limited partnership related to GTDH; and, without limiting the generality of the foregoing, in the RBC Direct Account; and you are directed to refrain from disposing of, transferring, dissipating or otherwise dealing with or diminishing the value

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of those funds, securities or property until the Ontario Securities Commission in writing revokes or varies this Direction or consents to release a particular fund, security or property from this Direction or until the Ontario Superior Court of Justice orders otherwise, except that you may dispose of securities or derivatives already held in the RBC Direct Account provided that any disposition occurs through the facilities of a recognized exchange and all proceeds of such sales are maintained in the RBC Direct Account.

DATED at Toronto, Ontario this 6th day of December, 2021.

"Timothy Moseley"

↑



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

22nd Floor
20 Queen Street West
Toronto ON M5H 3S8

22^e étage
20, rue queen ouest
Toronto ON M5H 3S8

**IN THE MATTER OF THE *SECURITIES ACT*
 R.S.O. 1990, c. S.5, AS AMENDED**

- AND -

**IN THE MATTER OF GO-TO DEVELOPMENTS HOLDINGS INC.,
 OSCAR FURTADO, and FURTADO HOLDINGS INC.**

**FREEZE DIRECTION
 (Section 126(1)(a))**

TO: The Manager
 RBC Direct Investing Inc.
 200 Bay Street
 P.O. Box 75
 Toronto, ON M5J 2Z5

RE: FURTADO, Oscar
 Account No. 685-92809-2-4
 (CAD and USD)

TAKE NOTICE that pursuant to paragraph 126(1)(a) of the *Securities Act*, R.S.O. 1990, c. S. 5, as amended (the "Act"), RBC Direct Investing Inc. ("RBC Direct") is directed to retain any funds, securities or property that it has on deposit or under its control or for safekeeping in the name of or otherwise under the control of Oscar Furtado, including any funds, securities or property on deposit in account no. 685-92809-2-4 (the "Account"), and hold the funds, securities or property until the Ontario Securities Commission in writing revokes or varies this Direction or consents to release a particular fund, securities or property from this Direction or until the Ontario Superior Court of Justice orders otherwise, with the exception that securities or derivatives already held in the Account may be sold provided that any disposition occurs through the facilities of a recognized exchange and all proceeds of such sales are maintained in the Account.

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AND TAKE FURTHER NOTICE THAT this Direction applies to any and all funds, securities or property in a recognized clearing agency and to any and all securities in the process of transfer by a transfer agent.

AND TAKE FURTHER NOTICE THAT this Direction may be served by e-mail, fax or courier to the above-noted address for and the last known address of the parties named in this Direction in the records of RBC Direct.

DATED at Toronto, Ontario this 6th day of December, 2021.

"Timothy Moseley"

SCHEDULE "D" RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that KSV Restructuring Inc., the receiver and manager (the "**Receiver**") of the real property listed on Schedule "A" of the Receivership Order (as defined below) (the "**Real Property**") and all the other assets, undertakings and properties of each of the parties listed on Schedule "B" of the Receivership Order (the "**Receivership Respondents**"), including all of the assets held in trust or required to be held in trust by or for any of the Receivership Respondents, or by their lawyers, agents and/or any other Person (as defined in the Receivership Order), and all proceeds thereof (together with the Real Property, the "**Property**"), appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 9th day of December, 2021 (the "**Receivership Order**") made in an application having Court file number CV-21-00673521-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$_____, being part of the total principal sum of \$250,000.00 which the Receiver is authorized to borrow under and pursuant to the Receivership Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Receivership Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Receivership Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Receivership Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

✓

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Receivership Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Receivership Order.

DATED the ____ day of _____, 20__.

KSV Restructuring Inc., solely in its capacity as
 Receiver of the Property, and not in its personal
 capacity

Per: _____

Name:

Title:

ONTARIO SECURITIES COMMISSION

GO-TO DEVELOPMENTS HOLDINGS INC., ET AL.

Applicant

Respondents

Court File No. CV-21-00673521-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ORDER
(appointing Receiver)

Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, ON M5H 3S8

Erin Hault (LSO No. 54002C)
Tel.: (416) 593-8290
Email: ehault@osc.gov.on.ca

Lawyers for the Ontario Securities Commission

CITATION: Ontario Securities Commission v. Go-To Developments Holdings Inc.,
2021 ONSC 8133

COURT FILE NO.: CV-21-00673521-00CL

DATE: 20211210

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

ONTARIO SECURITIES COMMISSION

Applicant

– and –

GO-TO DEVELOPMENTS HOLDINGS
INC., OSCAR FURTADO, FURTADO
HOLDINGS INC., GO-TO
DEVELOPMENTS ACQUISITIONS INC.,
GO-TO GLENDALE AVENUE INC., GO-
TO GLENDALE AVENUE LP, GO-TO
MAJOR MACKENZIE SOUTH BLOCK
INC., GO-TO MAJOR MACKENZIE
SOUTH BLOCK LP, GO-TO MAJOR
MACKENZIE SOUTH BLOCK II INC.,
GO-TO MAJOR MACKENZIE SOUTH
BLOCK II LP, GO-TO NIAGARA FALLS
CHIPPAWA INC., GO-TO NIAGARA
FALLS CHIPPAWA LP, GO-TO
NIAGARA FALLS EAGLE VALLEY
INC., GO-TO NIAGARA FALLS EAGLE
VALLEY LP, GO-TO SPADINA
ADELAIDE SQUARE INC., GO-TO
SPADINA ADELAIDE SQUARE LP, GO-
TO STONEY CREEK ELFRIDA INC.,
GO-TO STONEY CREEK ELFRIDA LP,
GO-TO ST. CATHARINES BEARD INC.,
GO-TO ST. CATHARINES BEARD LP,
GO-TO VAUGHAN ISLINGTON
AVENUE INC., GO-TO VAUGHAN
ISLINGTON AVENUE LP, AURORA
ROAD LIMITED PARTNERSHIP and
2506039 ONTARIO LIMITED

Respondents

*Erin Hoult and Braden Stapleton, for the
Applicant*

Darryl Mann, for the Respondents

*Steven Graff and Ian Aversa, for KSV
Restructuring Inc., proposed Receiver and
Manager*

HEARD: December 9, 2021

L. A. PATTILLO J

[1] On December 6, 2021, the Ontario Securities Commission (the “Commission”) issued two freeze directions under s. 126(1) of the Securities Act, R.S.O. 1990 c.s.5 (the “Act”) which require the respondent Oscar Furtado (“Furtado”) to maintain and refrain from imperiling assets derived from investor funds and require RBC Direct Investing to maintain the assets in Furtado’s RBC Direct Account.

[2] The Commission brings this application to continue those directions and for the appointment of KSV Restructuring Inc. as receiver and manager of the respondent Go-To entities.

[3] At the outset of the hearing, Furtado requested a short adjournment to permit him to retain new counsel (Mr. Mann appears on a limited retainer) and file responding material. He submitted, notwithstanding the Commission’s Staff’s investigation has been ongoing since March 2019, he was only advised of this proceeding on Monday and did not receive the Commission’s material until Monday evening. He disagrees with the Commission’s allegations, particularly that he misled Staff during the investigation and wants to respond. Nothing in the Commission’s material indicates anything precipitous was about to happen.

[4] In support of his request, Furtado has offered terms including continuing the freeze directions (with some access for living expenses and legal fees), production of the investigation transcripts and the appointment of a monitor as opposed to a receiver at the Commission’s expense.

[5] The Commission opposed the request. It submitted that a monitor would not be sufficient as it would leave Furtado in charge. Rather, in light of the record, a receiver was necessary to safeguard the interests of the investors. Further, while it could have proceeded *ex parte* under s. 129 of the Act, it gave Furtado notice and sufficient time to file material if required. In that regard, in the absence of material, many of Furtado’s submissions were unsubstantiated.

[6] Based on the allegations concerning Furtado’s actions in respect of his dealings with the Go-To projects and specifically the Go-To Spadina Adelaide Square Limited Partnership. (“Adelaide LP”) as set out in the Commission’s material and which I will address shortly, I was satisfied, despite the length of time the Commission’s investigation has been ongoing, that it was necessary having regard to the interests of the investors to deal with the application rather than adjourn it to a future date and leave Furtado in charge. I also was of the view that Furtado had sufficient notice to file material.

[7] Accordingly, I dismissed Furtado’s adjournment request.

[8] Furtado is the founder and directing mind of the Go-To entities which are limited partnerships. Between 2016 and 2020, Furtado and the respondent Go-To Developments Holdings Inc. (GTDH) raised almost \$80 million from Ontario investors for nine Go-To real estate projects by selling limited partnership units. The projects are not complete, and the investors’ funds remain outstanding.

[9] One of the projects is Adelaide LP, whose business is described as purchasing, holding an interest in, conducting pre-development planning with respect to development and construction of two properties, 355 Adelaide St. W. and 46 Charlotte Street in downtown Toronto (the

“Properties”). Beginning in February 2019, Furtado began to raise capital for Adelaide LP by selling units.

[10] The Adelaide LP agreement provides that investors would be paid returns pro-rata, after all investors received a return of their capital. It also provides no investor could require return of any capital contributions back until the dissolution, winding up or liquidation of the partnership.

[11] The purchase rights to the Properties were secured by Adelaide Square Developments Inc. (ASD) a company owned, in part, by AKM Holdings Corp. (AKM) which was in turn owned by the wife of Alfredo Malanca (Malanca). Furtado negotiated the Adelaide LP’s acquisitions of the Properties with Malanca as a representative of ASD.

[12] In late March, early April 2019, Adelaide LP and ASD entered into agreements whereby ASD assigned the purchase and sale agreements for the properties to Adelaide LP (the purchase price for the Properties was \$53.3 million plus a density bonus on one of the properties). They also entered into an Assignment Fee agreement which provided Adelaide LP would pay ASD an assignment fee of \$20.95 million. Adelaide LP paid the assignment fee from investors monies.

[13] At the same time, Furtado pledged the assets of two other Go-To LP’s to secure Adelaide LP obligations contrary to the LP agreements and without notice to any of the unit holders.

[14] On April 4, 2019, Adelaide LP entered into a demand loan agreement with ASD for \$19.8 million. The proceeds were paid by ASD to an investor in Adelaide LP for its redemption of \$16.8 million units and a \$2.7 million flat fee return and \$300,000 to Goldmount Financial Group Corp. (Goldmount), a mortgage brokerage in which Malanca is a director, as a referral fee for introducing the investor.

[15] On April 15, 2019, the respondent Furtado Holdings Inc. and AKM each received from ASD 11 shares of ASD and \$388,087.33 paid by ASD out of the assignment fee.

[16] On September 19 to 30, 2019, Furtado raised \$13.25 million for Adelaide LP from four investors. On October 1, 2019, Adelaide LP paid ASD \$12 million on the demand loan although no payment was due or demand made. On the same day, ASD paid both Furtado Holdings and AKM a “dividend” of \$6 million each. Furtado denied that he planned to profit on Adelaide LP’s purchase of the Properties and said that ASD decided to give Furtado Holdings “a thank you”.

[17] By August 2020, Furtado Holdings had used the bulk of the \$6 million dividend to transfer \$2.25 million to Furtado’s personal bank account and loan or otherwise transfer approximately \$3.265 million to every Go-To General Partner (GP), GTDH and Go-To Developments Acquisitions Inc. The Commission states it appears the transfers to the GPs were spent on operating costs and payments due to LP investors.

[18] Further, from Furtado’s bank account, approximately \$2.026 million was transferred to his RBC Direct Investing account in close proximity to the transfers received from Furtado Holdings.

[19] In addition to the above events involving Adelaide LP, Furtado and ASD, the Commission also submits that Furtado misled Staff during its investigation in respect of some of the answers

he gave. As noted, Furtado denies that allegation and submits that he co-operated with Staff and answered all of their questions.

[20] Section 129(1) and (2) of the Act gives the court the discretion, on application by the Commission, to appoint a receiver and manager of the property of any person or company where: (a) it is in the best interests of the creditors, security holders, or subscribers of such person or company; or (b) it is appropriate for the due administration of securities law.

[21] In *Ontario Securities Commission v. Sextant Strategic Opportunities Hedge Fund L.P.*, 2009 CanLII38503 (ONSC) at para. 54, Morawetz J. (as he then was) emphasized that the analysis of the “best interests” of the creditors and security holders in s. 129 is broader than the solvency test. Instead the court should consider “all the circumstances and whether, in the context of those circumstances, it is in the best interests of creditors that a receiver be appointed. The criteria should also take into account the interests of all stakeholders.”

[22] In my view, having regard to all the circumstances, I am satisfied based on the Commission’s evidence of Furtado’s dealings in respect of Adelaide LP that it is in the best interests of the investors in the Go-To projects that a receiver be appointed to ensure that the Go-To projects are managed in a proper fashion to protect the investors’ investments.

[23] The Commission’s investigation has revealed evidence of undisclosed payments to Furtado arising from Adelaide LP’s purchase of the Properties, resulting in misappropriation and improper use of Adelaide LP funds through his dealings with ASD.

[24] The Commission’s evidence establishes Furtado:

- a) Arranged to personally profit from Adelaide LP’s purchase of the Properties;
- b) Misused other Go-To LP assets to secure Adelaide LP’s acquisition of the Properties; and
- c) Gave false and/or misleading evidence to Staff about his dealings with ASD and Furtado Holdings’ receipt of shares and moneys from ASD.

[25] While I acknowledge that Furtado disputes the Commission’s allegation that he mislead Staff, in my view his dealings in respect of Adelaide LP and the cross-collateralization are of great concern by themselves.

[26] I agree with the Commission’s submission that the gravity of the potential breaches of the Act indicated by the evidence raises significant concerns about Furtado’s ability to operate in capital markets in a manner compliant with securities laws.

[27] Accordingly, I am satisfied the Commission has met the requirements of s. 126 of the Act. The appointment of a receiver will ensure that the investors’ interests are protected and that the Go-To entities are properly administered.

[28] Furtado submits that the appointment of a receiver will be the “death knell” for the Go-To projects. It will result in defaults under the various Go-To LP loan agreements. The receivership

is not in respect of an insolvency. There is no reason that the various projects can not continue under the control of a receiver. Further, with a stay in place, none of the loan agreements can be placed in default.

[29] Section 126(5.1) of the Act permits the court to continue a freeze direction where it is satisfied that such order would be reasonable and expedient in the circumstances, having due regard to the public interest and either (a) the due administration of Ontario securities law; or (b) the regulation of capital markets in Ontario.

[30] In order to continue a freeze direction, the Commission must establish: (a) there is a serious issue to be tried in respect of the respondents' breaches of the Act; (b) there is a basis to suspect, suggest or prove a connection between the frozen assets and the conduct in issue; and (c) the freeze directions are necessary for the due administration of securities laws or the regulation of capital markets, in Ontario or elsewhere: *OSC v. Future Solar Developments*, 2015 ONSC 2334 at para. 31.

[31] In my view, the evidence establishes all three parts of the above test. There is at least a serious issue to be tried as to potential breaches of the act by Furtado and Furtado Holdings, including fraud; the directions freeze Furtado's RBC Direct Account and any other assets he derived from investor funds. The evidence of Furtado's uses of the \$6 million dividend shows at least a basis to "suspect, suggest or prove" a connection between the assets frozen and the conduct in issue. Finally, continuation of the directions is necessary for the due administration of securities laws. They address inappropriate use of investor funds, dissipation of assets and preservation of assets.

[32] The application is allowed. KSV is appointed as receiver and manager without security of the respondent Go-To entities and the directions are continued until withdrawn or altered by the Commission or further order of the court.

[33] The Commission shall redact any personal information concerning any individual (excluding name, title, contact information or designation of business, profession or official capacity) contained in the exhibits to the affidavit filed in support of the application.



L. A. Pattillo J.

CITATION: Ontario Securities Commission v. Go-To Developments Holdings Inc.,
2021 ONSC 8133
COURT FILE NO.: CV-21-00673521-00CL
DATE: 20211210

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

ONTARIO SECURITIES COMMISSION

Applicant

– and –

GO-TO DEVELOPMENTS HOLDINGS INC., OSCAR FURTADO, FURTADO HOLDINGS INC., GO-TO DEVELOPMENTS ACQUISITIONS INC., GO-TO GLENDALE AVENUE INC., GO-TO GLENDALE AVENUE LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK LP, GO-TO MAJOR MACKENZIE SOUTH BLOCK II INC., GO-TO MAJOR MACKENZIE SOUTH BLOCK II LP, GO-TO NIAGARA FALLS CHIPPAWA INC., GO-TO NIAGARA FALLS CHIPPAWA LP, GO-TO NIAGARA FALLS EAGLE VALLEY INC., GO-TO NIAGARA FALLS EAGLE VALLEY LP, GO-TO SPADINA ADELAIDE SQUARE INC., GO-TO SPADINA ADELAIDE SQUARE LP, GO-TO STONEY CREEK ELFRIDA INC., GO-TO STONEY CREEK ELFRIDA LP, GO-TO ST. CATHARINES BEARD INC., GO-TO ST. CATHARINES BEARD LP, GO-TO VAUGHAN ISLINGTON AVENUE INC., GO-TO VAUGHAN ISLINGTON AVENUE LP, AURORA ROAD LIMITED PARTNERSHIP and 2506039 ONTARIO LIMITED

Respondents

REASONS FOR JUDGMENT

Pattillo J.

ONTARIO SECURITIES COMMISSION
Applicant (Respondent in Appeal – Moving Party)

- AND -

GO-TO DEVELOPMENTS HOLDINGS INC., *et al.*
Respondents (Appellants)

COURT OF APPEAL FOR ONTARIO
Proceeding Commenced at Toronto

**MOTION RECORD – FRESH EVIDENCE
TENDERED BY THE RESPONDENT**

Ontario Securities Commission
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Toronto, ON M5H 3S8

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